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SUBCOMMITTEE ON OCCUPATIONAL
LICENSING AND TEACHER CERTIFICATION

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**Entry into Montana's
Trades, Crafts, and Professions**

December 1976

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ENTRY INTO MONTANA'S
TRADES, CRAFTS, AND PROFESSIONS

A REPORT TO THE
FORTY-FIFTH LEGISLATURE

Subcommittee on Occupational Licensing
and Teacher Certification

December 1976

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Subcommittee on Occupational Licensing
and Teacher Certification

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TABLE OF CONTENTS

	<u>Page</u>
SUMMARY OF RECOMMENDATIONS.	3
INTRODUCTION AND SUMMARY OF SUBCOMMITTEE DELIBERATIONS.	1
APPRENTICESHIP TRAINING	
I. Purpose.	5
II. Structure.	5
III. Entry into Apprenticeship Programs	9
A. Entry requirements and conditions	
1. Education requirements	
2. Age limits	
3. Race	
4. Sex	
5. Journeyman/apprentice ratios	
B. Apprenticeship as an avenue of entry	
1. One of many avenues in most trades	
2. State licenses requiring apprentice-	
ship training	
3. Coordination with vocational-	
technical and adult education	
courses	
4. Opportunities for apprenticeship	
programs in the future	
IV. Subcommittee Deliberations and Proposed Bill.	31
V. Minority Report	32
OCCUPATIONAL LICENSING	
I. Purpose	33
II. Structure	33
III. Entry into Licensed Occupations	37
A. National concern over occupational licensing	
B. Proliferation of licenses	

C.	Education and experience requirements	
D.	Tests	
E.	Reciprocal licensing	
F.	Bonding requirements	
G.	Licensing boards' enforcement programs	
H.	Alternatives to the present system of licensing	
IV.	Subcommittee Deliberations & Proposed Bill	63

TEACHER EDUCATION AND CERTIFICATION

I.	Nationwide Movement for Teacher Certification Controlled by Peers.	65
II.	Licensure Commissions in Other States.	66
III.	Teacher Education Programs in Other States	71
IV.	Certification of Teachers in Montana	72
V.	Teacher Education in Montana	72
VI.	Montana's Advisory Committees on Teacher Education and Certification.	74
VII.	Subcommittee Deliberations and Proposed Bill . . .	86
VIII.	Minority Report.	91
IX.	Minority Report	92

FOOTNOTES	93
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APPENDIX A - Data and responses on subcommittee survey of 100 businesses to assess their need for and training of apprenticeship	101
APPENDIX B - The composition of boards administered by the Department of Professional and Occupational Licensing	111
APPENDIX C - Statutory fees charged by occupational licensing boards, 1966 and 1976	115

- APPENDIX D - Legal basis for proration of costs of Department of Professional and Occupational Licensing. 123
- APPENDIX E - A bill for an act entitled: "An act relating to qualifications for licensure as a plumber, electrician, or heating, ventilating, and air conditioning mechanic, allowing recognition of classroom training as part of apprenticeship training."
- APPENDIX F - A bill for an act entitled: An act to provide a remedy for consumers of professional services who are harmed because of a violation of professional standards by licensees of the Department of Professional and Occupational Licensing; placing authority in that department to require licensees to repair the harm or pay damages in reparation of such harm; creating a fund to pay awards defaulted upon; and removing bond requirements."
- APPENDIX G - A bill for an act entitled: "An act relating to certification of teachers in the public schools of Montana and teacher education institutions and programs; creating a Board of Professional Standards and Licensures; and raising teacher certification fees."

INTRODUCTION AND SUMMARY OF SUBCOMMITTEE DELIBERATIONS

At the close of the 1975 Legislature, the Committee on Priorities formed a subcommittee composed of two members from the committees on Business and Industry, Labor and Employment Relations, and Education in each house. The committee's assignment was to "study the question of licensure relating to the artificial barriers raised against entry into trades, crafts, and professions," including teacher certification.

This study was prompted by the introduction of Senate Joint Resolution 29, requesting a study of apprenticeship programs in Montana to investigate "their structure, content, availability, and any other relevant aspects of the various crafts and the courses of study toward promoting more availability and opportunities for people in the various crafts." At its April 8, 1975 meeting, the Committee on Priorities enlarged the topic, assigning the subcommittee to study licensure requirements for all crafts, trades, and professions. At that meeting, the committee also reaffirmed that teacher certification -- in particular, HB 636 -- was included in the study.

The subcommittee met five times during the interim and gathered much research data on the three topics of the study. Public testimony was heard at four meetings. The subcommittee mailed questionnaires and draft legislation to over 200 individuals and organizations, seeking information, opinions, and input.

Because the topics considered by the subcommittee differ in many respects, this report is divided into three sections -- apprenticeship training, occupational licensing, and teacher education and certification. Subcommittee deliberations on each topic follow the research data gathered on that topic.

A minority report on the apprenticeship bill appears on page 32, and two minority reports on the Board of Professional Standards and Licensure bill appear on pages 91 and 92.

SUMMARY OF RECOMMENDATIONS

The Subcommittee on Occupational Licensing and Teacher Certification recommends that the 1977 Montana Legislature:

- (1) enact a bill allowing recognition of classroom training in apprenticeship programs required for state licensure;
- (2) enact a bill to provide a remedy to consumers of professional services who are harmed because of a violation of professional standards by licensees of the Department of Professional and Occupational Licensing; placing authority in that department to require licensees to repair the harm or pay damages in reparation for such harm; creating a fund to pay awards defaulted upon and removing bond requirements; and
- (3) enact a bill creating a board of professional standards and licensure for teacher education and certification.

APPRENTICESHIP

I. PURPOSE

Apprenticeship training, as defined by the U.S. Department of Labor, is:

"training in those industrial occupations requiring a wide and diverse range of skills and knowledge . . . (that) involves planned day-by-day, on-the-job training and experience under proper supervision, combined with technical studies in subjects related to the trade."

Its purpose is to produce skilled workers, knowledgeable in all aspects of a trade. This method of training has been called "one of the best systems of training craftsmen" and "the nucleus of craftsmanship."¹

Since 1937, the federal government has recognized and formally encouraged apprenticeship programs as a means of raising labor standards by insuring that young people entering a trade have an opportunity to learn the craft thoroughly and are not used solely as a source of cheap labor. Many states, including Montana, have enacted similar laws to encourage apprenticeship programs within their boundaries.

II. STRUCTURE OF APPRENTICESHIP PROGRAMS

Apprenticeship programs are voluntary agreements between the employer and employee or between a joint committee -- composed of labor and management -- and a worker. No federal or Montana law compels any employer, employee, or joint committee to sign an apprenticeship agreement. Rather, federal and state governments have adopted the role of encouraging apprenticeship programs by offering employers and employees inducements, discussed below, to enter into these agreements.

If an employer and employee or joint committee and worker do agree to sign an apprenticeship agreement, the federal and state governments require certain standards of training and procedures to safeguard the apprentice.²

Governmental promotion of modern apprenticeship agreement came to Montana in 1941, when the legislature passed "An Act for a System of Apprenticeship Whereby Voluntarily Made Agreements of Apprenticeship Would Be Encouraged....", which created an apprenticeship council composed of representatives of management and labor to "encourage and promote the making of apprenticeship agreements". The council was empowered to register any apprenticeship agreement

that was "in the best interests of apprenticeship" which met the following standards:

- (1) included at least 4,000 hours "of reasonably continuous employment" in a trade;
- (2) specified the areas of the trade in which the apprentice would be instructed and the time to be spent on each;
- (3) provided at least 144 hours a year of "related and supplemental" instruction (usually, classroom work); and
- (4) paid a progressively increasing scale of wages.

The law also required apprentices to be at least 16 years old.³

Executive Reorganization abolished the council and transferred its functions to the Department of Labor and Industry in 1971 but the standards of apprenticeship and the state's role have remained the same. The Montana Apprenticeship Bureau, a bureau of the department, registers apprenticeship agreements meeting these standards and issues certificates to apprentices completing the program.

Apprenticeship programs are of two main types: (1) joint programs and (2) individual programs. Joint programs are sponsored by Joint Apprenticeship Training Committees (JATC) composed of equal members of representatives from labor and management in an industry. The JATC, which may be affiliated with national apprenticeship committees, interviews and selects applicants who meet its standards. If the JATC is able to place the applicants in the industry, it then monitors their training as apprentices and provides their supplemental instruction. Approximately 40 percent of the 1,651 apprentices registered with MAB are in joint programs. The electrical, plumbing, sheet metal, operating engineers, carpentry, and brick-laying trades are among those in which JATC's are active. Individual programs are agreements between an employer and an apprentice in which the employer establishes the requirements for entry, selects the apprentice, structures the training program, and provides the supplemental training (within the limits of Montana statutes). About 60 percent of all agreements registered with MAB are individual agreements. Apprentices in farm implement repair, auto mechanics, meat cutting, and baking are usually registered in individual programs.

In the first type of program, the apprentice must be selected first by the JATC and then be placed in a job in the industry with the help of the JATC. The apprenticeship agreement is between the JATC and the apprentice and registered by MAB. In the second type, the employer selects his own employee and signs an agreement with him, which is registered with MAB.⁴

The number of apprentices enrolled in major fields in Fiscal Year 1975 is shown in Table I.

The federal Bureau of Apprenticeship and Training (BAT) of the U. S. Department of Labor, which has branch offices in the state, cooperates with MAB in registering and monitoring programs. BAT does not, however, have any control or jurisdiction over MAB. Although section 41-1201 states that the bureau shall perform its functions "subject to the approval of the federal committee on apprenticeship", the U.S. department does not try to regulate state bureaus. MAB may register apprentices in any trade or program meeting the standards established in section 41-1204. MAB receives no federal moneys for its apprenticeship registration duties, only money from the general funds appropriation to the Department of Labor and Industry.⁵

To encourage employers to hire apprentices, the federal government has made apprenticeship a requirement for receiving certain benefits:

- (1) Viet Nam veterans may receive payments from the Veterans' Administration to supplement their wage if they sign an apprenticeship agreement or on-the-job training agreement with their employer or JATC. These agreements must be registered with and monitored by an approval agency. MAB serves as the approval agency for Montana and receives federal funding for this function (\$88,000 in FY 1976). In April 1976, 361 or 22 percent of registered apprentices in Montana were receiving G.I. benefits.⁶
- (2) Employers who agree to train workers in apprenticeshipable trades under the Concentrated Employment and Training Act must sign an apprenticeship agreement and register it with MAB or BAT. The employer may then be reimbursed for part of the cost of training. In FY 1975, 131 apprentices registered with MAB were CETA participants.⁷
- (3) Contractors on certain federally financed construction must register any workers paid less than journeymen's wages in an apprentice or trainee program approved by BAT or MAB.⁸

Montana laws do not contain similar inducements and requirements. However, public funds are available to defray part of the cost of the apprentices' supplemental training.

The office of the Superintendent of Public Instruction allows county school districts to reimburse JATC programs meeting its approval for part of the cost of instructors' salaries from the one mill levy for adult education authorized in section 75-7207. The amount of adult education funds used for apprenticeship training in these cities last year was:

TABLE I
NUMBER OF APPRENTICES IN VARIOUS
FIELDS, GRADUATING 5 OR
MORE APPRENTICES, FY 1975

<u>Trade</u>	<u>Number Enrolled *</u>	<u>Completed</u>
Auto Body Fenderman	53	9
Auto Mechanic	101	18
Auto Mechanic, Heavy Duty	48	11
Baker	28	8
Boilermaker	25	11
Carpenter	200	33
Diesel Mechanic	23	6
Electrician	115	25
Electrician Lineman	108	19
Operator	44	14
Glazier	22	7
Iron Worker	72	24
Machinist	46	14
Meat Cutter	52	22
Painter	26	5
Plumber	113	11
Sheet Metal Worker	49	7
Telephone Installer	47	3
Telephone Lineman	44	19

* Terms of apprenticeship range from 2 to 4 years.

Source: MAB, "Apprenticeship Totals For the Year Ending June 1975"

Billings	\$21,090
Missoula	\$ 8,793
Great Falls	\$23,472
Helena	\$ 3,960

The Office of the Superintendent of Public Instruction refunds districts about 20 percent of this amount from vocational education fees.⁹

Apprenticeship programs in themselves can benefit employer and employee. By setting statewide training standards -- and helping employers meet them -- MAB helps raise the level of training employers may expect and helps apprentices become better trained. Apprentices presenting a state certificate of completion to a prospective employer are presenting evidence of their skill and experience.

These inducements underscore the voluntary nature of apprenticeship agreements, also reiterated in the concluding paragraph of Montana's Apprenticeship Act.

41-1206. Limitation. The provisions of this act shall apply to a person, firm, corporation or craft only after such person, firm, corporation or craft has voluntarily elected to conform with its provisions.

As in many voluntary programs, the state's control is circumscribed.

III. ENTRY INTO APPRENTICE PROGRAMS

In the 1960's apprenticeship programs throughout the nation were widely criticized for discriminating against minority groups. Civil rights advocates, educators, and manpower analysts charged that JATC's: (1) selected apprentices on the recommendation by journeymen already in the trade, which prevented minorities from getting a foothold in the trades; (2) established unnecessarily high apprentice/journeymen ratios in bargaining agreements to keep the supply of skilled labor down and wages up; (3) set standards of entry unrelated to the work that further handicap minority applicants. JATC's programs, they charged, created artificial barriers to minorities trying to enter the trade.¹⁰

In response to these criticisms and the nationwide equal employment opportunity movement, the U.S. Secretary of Labor published regulations in 1963 requiring apprenticeship programs to establish impartial selection processes, remove entry qualifications not related to the work, and to encourage minority applicants. As amended in 1971, these regulations give the federal BAT power to review all apprenticeship programs to insure that:

The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origins, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate this apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.¹¹

Despite the changes in selection caused by these regulations and evidence that minority groups are entering training programs, apprenticeship programs are still criticized. This criticism has mounted in recent years as the wages and job opportunities of skilled craftsmen have outstripped those of many white-collar workers. Competition for the approximately 150,000 annual openings in apprenticeship programs is becoming more intense than for the 2,000,000 college openings.¹² These circumstances and the fact that shortages of skilled workers exist in some trades has led to some public suspicion that artificial barriers to entry still exist.

To determine whether this was the case in Montana, the subcommittee gathered and analyzed extensive data on the conditions of entry to apprenticeship programs throughout its 19-month study. Their data and findings are discussed below.

A. Entry Requirements and Conditions

In 1971, the Apprenticeship Council adopted a State Plan to implement the federal regulations for equal employment opportunity in apprenticeship programs. This plan, still in force, requires each sponsor registering programs with the bureau to:

- (1) Recruit, select, employ, and train apprentices during their apprenticeship, without discrimination because of race, color, religion, national origin or sex; and
- (2) Uniformly apply rules and regulations concerning apprentices, including but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor; and
- (3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this State Plan where necessary.

MAB or BAT examine apprenticeship programs periodically for

compliance with these duties.¹³

1. Education requirements

The State Plan requires that "all qualifications [for apprenticeship programs] shall be directly related to job performance". The subcommittee's study found no unusually high or unrelated education requirements.

As Table II shows, over 60 percent of the joint apprenticeship standards require high school graduation or its equivalent. Approximately 30 percent give preference to applicants with courses in certain fields (Table III). Nearly 80 percent require applicants to prove their aptitude for the trade (Table IV).¹⁴

2. Age limits

The Subcommittee did, however, find evidence of artificial age limitations. Although section 64-306(1)(b) of the Montana codes specifically provides that it is unlawful for

"a labor organization, or joint labor management committee controlling apprenticeship, to exclude or expel any person from...an apprenticeship or training program...because of his age..."

over 75 percent of all JATC standards registered with MAB had maximum age limits when the study began. Table V shows the limits imposed by the JATC's.¹⁵

As a result of the subcommittee's questions, the Bureau sent a letter October 29, 1976 to all JATC sponsors informing them that age limitations were illegal and should be removed from their standards.

3. Race

MAB and BAT require all JATC's on employers with over five apprentices to have an affirmative action plan for minority races. The state and federal bureaus monitor these programs to insure that minority apprentices are selected. The affirmative action plans seem to be working well: in 1975 11.6 percent of Montana apprentices were drawn from minority groups that constituted only 3.6 percent of the state's population. Several of the JATC's have programs to encourage minority members and provide them with pre-apprentice training to qualify them for the program.¹⁶

4. Sex

Although MAB's State Plan has since 1971 stipulated that the selection of apprenticeship must be made without regard to sex, less than 3 percent of the state's apprentices are female. Since approximately 80 percent of all female apprentices are enrolled

TABLE II
EDUCATION REQUIREMENT: Distribution of Requirement by Trade

	Sufficient to take Related Instruction	High School Graduate or GED	High School Graduate	Unclear or not Stated	Total Sponsors ²
Carpentry	8				8
Electrician ¹			1		1
Painters and Allied Trades		3		1	4
Auto Mechanics and Machinists	1	6		1	8
Plumbing and Allied Trades		7			7
Bricklaying		3			3
Sheet Metal		4			4
Other ³		3		1	4
Company ⁴	2	2		3	7
TOTAL	11	28	1	6	46

¹ 10 local unions are covered by one statewide Joint Apprenticeship Committee.

² 44 of the total sponsors represented here are Joint Apprenticeship Committees (7 representing labor and specific firms or companies) and 2 of the sponsors may be defined as associations.

³ Other includes: iron worker trades, operating engineers and the neon electrical sign industry.

⁴ Programs for specific companies where the apprentices are drawn, by and large, from employees of the company.

TABLE III

SPECIFIC COURSE WORK: Extra Points Granted Applicants in Final Selection Process;
Distribution by Trade

	<u>Math, Mechanical Drawing & Eng. Comp.</u>	<u>Additional Math and Science</u>	<u>Math, Drafting & Shop</u>	<u>Some, But Unclear</u>	<u>None</u>	<u>Total 2 Sponsors</u>
Carpentry					8	8
Electrician ¹		1				1
Painters and Allied Trades	2		1		1	4
Auto Mechanics and Machinists	6				2	8
Plumbing and Allied Trades					7	7
Bricklaying	1				2	3
Sheet Metal			1	1	2	4
Other ³					4	4
Company ⁴		1			6	7
TOTAL	9	2	1	2	32	46

1 10 local unions are covered by one statewide Joint Apprenticeship Committee.

2 44 of the total sponsors represented here are Joint Apprenticeship Committees (7 representing labor and specific firms or companies) and 2 of the sponsors may be defined as associations.

3 Other includes: iron worker trades, operating engineers and the neon electrical sign industry.

4 programs for specific companies where the apprentices are drawn, by and large, from employees of the company.

TABLE IV

APTITUDE TEST REQUIREMENT: Distribution of Requirement By Trade

	<u>Aptitude Test Required</u>	<u>Other Test Required</u>	<u>None</u>	<u>Total Sponsors²</u>
Carpentry	8			8
Electrician ¹	1			1
Painters and Allied Trades	4			4
Auto Mechanics and Machinists	5		3	8
Plumbing and Allied Trades	7			7
Bricklaying	3			3
Sheet Metal	4			4
Other ³	4			4
Company ⁴	1	1	5	7
TOTAL	37	1	8	46

¹ 10 local unions are covered by one statewide Joint Apprenticeship Committee.

² 44 of the total sponsors represented here are Joint Apprenticeship Committees (7 representing labor and specific firms or companies) and 2 of the sponsors may be defined as associations.

³ Other includes: iron worker trades, operating engineers and the neon electrician sign industry.

⁴ Programs for specific companies where the apprentices are drawn, by and large, from employees of the company.

TABLE V

APPRENTICESHIP PROGRAMS
WITH
MAXIMUM AGE REQUIREMENTS

<u>JATC sponsor</u>	<u>Location</u>	<u>Age Limits</u>
Electricians	statewide	18-24
Printers, Sign & Pictorial Printers, and Drywall Finishers	Great Falls Helena West. Montana	16-26 16-25 16-32
Auto Mechanics, Auto Body Fenderman	Helena Anaconda Butte Great Falls	17-45 16-25 16-25 17-45
Heavy Duty Truck Mechanics	Billings	18-30
Plumbing Trade	Billings Butte, Anaconda, Helena, Bozeman, Livingston	17-24 " " "
Steamfitting, pipefitting	Billings Great Falls Missoula Kalispell, Libby Hamilton	17-24 17-24 17-27 " "
Bricklayers, Stove, Terrazzo Worker, Tile Setter	Billings Butte Great Falls	17-28 17-24 17-26
Sheet Metal Workers	Billings Great Falls Helena Missoula	17-25 18-26 17-23 18-26
Ironworker - bridge, Structural, Ornamental	Kalispell Billings, Great Falls, Butte, Anaconda	18-30 " " "
Neon & electrical sign industry	Great Falls	18-24
Montana Operating Engineers	Statewide	18-30
Apprentice trades for Anaconda Co. Electrical trades for Pacific Power and Light Co.	Statewide	18-27

Electrical Worker for Montana Power Co.	18-28
Lineman-Yellowstone Valley Electrical Coop.	18-28
Apprentice for Stouffer Chemical Co.	18-50
Apprentice for American Smelting and Refining Co.	16-24

APPRENTICESHIP PROGRAMS
WITH
NO MAXIMUM AGE REQUIREMENT

Carpenters	statewide
Glaziers	Billings
Automotive Mechanics, Body Repair Mech., Heavy-Duty Mechanics, Partsman	Montana Auto dealers Assoc.
" " "	Montana Hardware and Implement Assoc.
Steamfitting and pipefitting	Butte, Anaconda Helena, Bozeman Livingston
Baker & Meat cutter for Safeway	statewide

Source: Apprenticeship Standards on file iwth MAB and BAT,
August 1975.

in one program -- that of Mountain Bell Telephone -- the number of women entering other trades' programs is small.¹⁷ Data do not exist, however, to determine whether this small representation is due to discrimination or to the failure of women to apply for apprenticeship programs.

MAB does not require sponsors to include women in affirmative action plans because it interprets the federal regulations to require "minority groups" only to be included. While MAB does keep records of the number of female apprentices in each program, it does not require sponsors to have specific programs to encourage and enroll women.¹⁸

The bureau's interpretation is open to question, since the federal regulations require each sponsor to "take affirmative action to provide equal opportunity in apprenticeship".

Montana statutes also suggest that the Bureau's duties may extend further. Section 64-318 provides:

No state or local facility shall be used in the furtherance of any discriminatory practice, nor shall any state or local agency become a party to any agreement, arrangement, or plan which has the effect of sanctioning discriminatory practices. Each state and local agency shall analyze all of its operations to ascertain possible instances of non-compliance with the policy of this act and shall initiate comprehensive programs to remedy any defect found to exist.

The Chief Counsel of the Human Rights Bureau noted in a memorandum requested by the subcommittee:

It is clear from this section that the Apprenticeship Council and the Apprenticeship Bureau have an affirmative duty to examine programs with which they are involved for possible discriminatory practices and to require the correction of any conditions or policies which have the effect of fostering or perpetuating discrimination.¹⁹

5. Journeymen/Apprentice ratios

While MAB does not establish any ratios for the number of apprentices who can be hired by a firm, most JATC's establish through collective bargaining agreements the maximum number of apprentices per journeymen an employer may hire. The purpose of these ratios is to (1) insure apprentices receive adequate supervision and (2) prevent the employer from using apprentices as cheap labor.

Table VI shows the ratios contained in various apprenticeship standards registered with MAB. Data from MAB's field review sheets suggests that few of the JATC's meet these ratios.²⁰

TABLE VI

THE ACTUAL RATIO OF APPRENTICES TO JOURNEYMEN
COMPARED TO THE MAXIMUM RATIOS ALLOWED BY UNION/MANAGER AGREEMENTS

<u>JATC</u>	<u>Actual Ratio of Apprentices to Journeymen</u>	<u>Ratio Allowed by Union Agreements</u>
Missoula Plumbers	1-13	1-1 then 1-5
Billings Piping	1-1.7	1-1 or 1-5*
Billings Sheet Metal	1-4.4	1-3
Billings Painters	1-8	1-3
Helena Carpenters	1-10	1-1 then 1-3
Billings Carpenters	1-13.3	1-3 then 1-2
Missoula Carpenters	1-13	1-4**
Billings Bricklaying	1-2.3	1-2 then 2-5
Great Falls Bricklaying	1-3	1 for 1-6 journeymen per shop 2 for 7 then 1-7
Great Falls Machinists	1-10	1-1 then 1-3
Helena & Missoula Machinists	1-8	1-3
Buttreys (baker and meat- cutters)	1-4.1	1-1 then 1-3
Safeways (baker and meat- cutters)	1-6.2	1-1 then 1-3
Montana Iron Workers	1-6	1-7 for structure reinforcing 1-4 for ornamental 1-1 for spinning cable
Montana Electrical JATC	1-7.5	1-3
Montana Operating Engineers	1-100	1-10

* If only one journeyman is employed, one apprentice is allowed.
If more than one journeyman is employed in a shop, the ratio is
one apprentice to five journeymen.

** Employers with only one journeyman may employ one apprentice.

Source: Latest field reports on the Affirmative Action Plan, Montana
State Department of Labor, Division of Apprenticeship
Standards; Standards of Apprenticeship for each JATC.

JATC officials testified that the slow economy of the past several years has made placing apprentices difficult. In western Montana, for example, placement was so slow that one JATC accepted no apprentice applications in 1975 and another is accepting none this year. Under these conditions, ratios have not been filled.²¹ The subcommittee did receive testimony from independent contractors in one trade that ratios set in collective bargaining agreements could be restrictive if applied to their businesses.²² However, the subcommittee discovered no evidence that the quotas did create artificial barriers to entry into Montana apprenticeship programs. Since few JATC's placed the maximum number of apprentices allowed under their contracts, quotas do not appear to be a limiting factor in the number of apprentices admitted.

B. Apprenticeship as an Avenue of Entry to Trades

1. One of many avenues

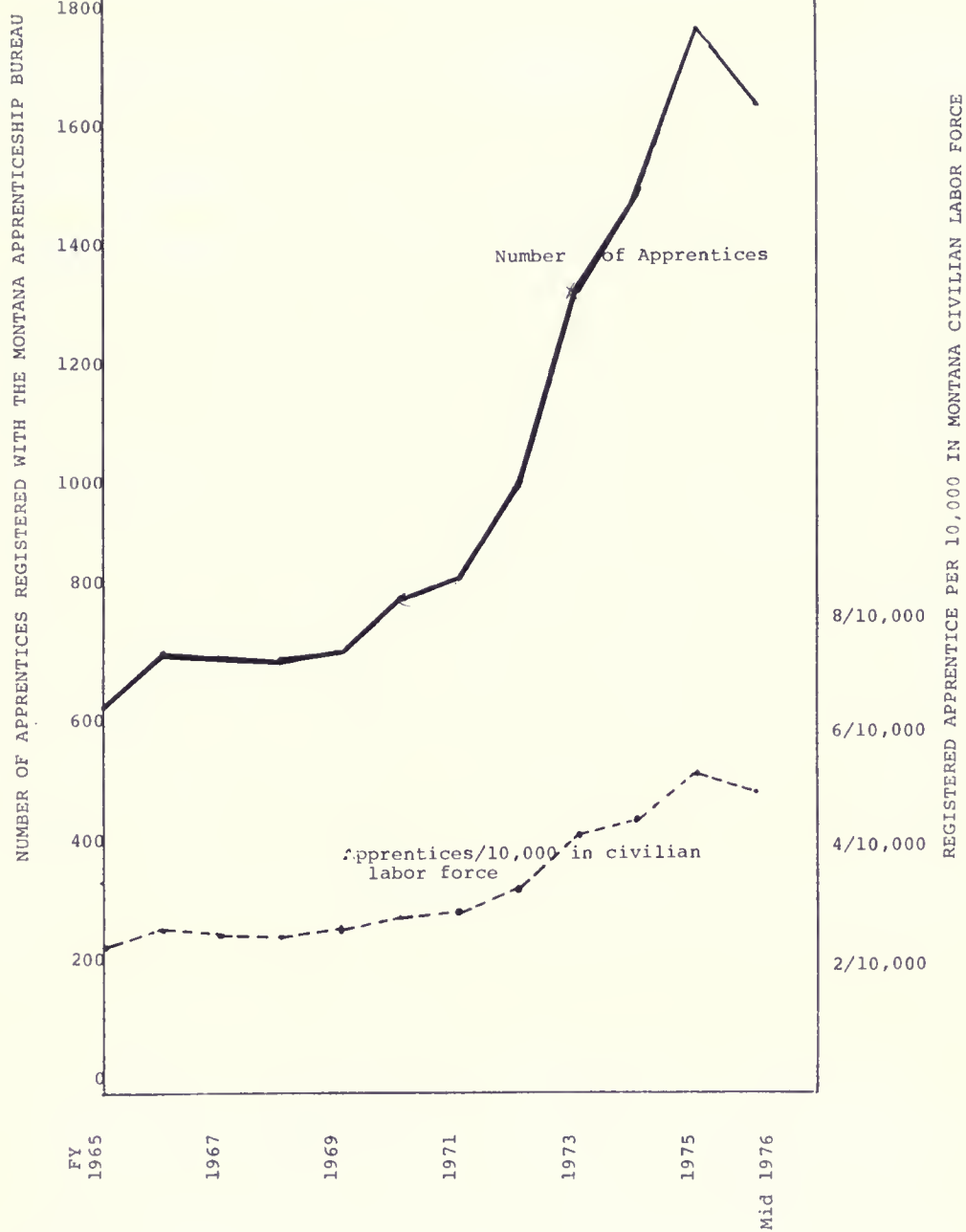
While the subcommittee did not discover any obvious artificial barriers to entry -- with the exception of age limits and possible sex discrimination -- , it did find that relatively few skilled workers enter skilled trades through apprenticeship programs. Evidence from many sources showed that apprentice training was only one of several avenues of entry to trades and not the most widely used.

In March 1976, the subcommittee sent a survey to 100 Montana businesses and learned that of 1,374 skilled workers employed by the responding firms, only 27 percent had been trained through apprenticeship. Sixty-seven percent had been trained through on-the-job training, 8 percent in the armed forces, and 6 percent in vocational-technical schools.^{23*} A 1973 survey of 1,000 Montana businesses conducted by the Employment Security Division indicated that about 9 percent of the skilled workers employed by the firms had been trained through apprenticeship programs.²⁴ As Table VIIa shows, the number of apprentices trained during the last decade is small compared to the total number of skilled workers. A comparison of the number of apprentices graduating in each trade and the annual openings in those trades (Table VIIb) suggest that apprenticeship programs are continuing to train only a portion of those entering trades. State records also point toward the same conclusion. The percent of applicants passing journeymen's licensing exams who had completed apprenticeship training in the following years were:

	1973	1974	1975
electricians' journeyman licenses	28%	26%	23%
plumbers' journeyman licenses	25%	14%	36% ²⁵

*The responses to this survey are contained in Appendix A.

THE NUMBER OF APPRENTICES
IN MONTANA, 1965-1975



SOURCE:

Monthly and Quarterly Apprenticeship Reports, Department of Labor and Industry, Labor Standards Division Biennial Report of the Montana Apprenticeship Council, 1967-1969 E.R.S. Employment Security Division, Montana Civilian Labor Force.

TABLE VIIB

PROJECTED JOB OPENINGS, 1970-1980
IN TRADES WITH MORE THAN TWENTY APPRENTICES

<u>JATC's With More Than Five Apprentices - 1975</u>	<u>Number Graduating 1975</u>	<u>Average Annual Openings in Montana</u>
Auto, Truck, Farm Mechanics & Bodymen	44	160
Bakers & Meat Cutter	30	30
Boilermakers	12	10
Bricklayers	3	10
Carpenters	33	180
Sheet Metal Workers	7	10
Painters	5	30
Electricians	45	60
Plumbers & Pipefitters	14	60
Telephone Workers	42	20
Operating Engineers	14	100
Iron Workers	24	NES
Millwrights	2	NES

NES -- not enumerated separately

Sources: "Monthly and Quarterly Apprenticeship Reports",
 Department of Labor, Division of Labor Standards;
 "Montana Manpower, 1980", Montana State Employment
 Service, September 1974 (Projected job openings
 are based on the assumption that Montana's economy
 will continue to parallel national economic trends
 and will experience a 6 percent unemployment rate
 through 1980.)

Correspondence with and testimony from unions and JATC's confirmed these indications. Many labor organizations contacted did not know how many of their members had served apprenticeships. The number of members transferring from other state and out-of-state locals makes gathering such information "difficult, time-consuming, and expensive", as one union business manager explained. They stated that workers who could demonstrate the skill of journeymen or were hired by an employer at journeyman wages were accepted as journeymen.²⁶

However, a few labor representatives testifying before the subcommittee said that most journeymen in their trades had completed apprenticeship training and the percentage entering the trade through this method was increasing.²⁷

2. State licenses requiring apprenticeship training

While avenues of entry other than apprenticeship exist in most trades, recent developments in state licensure have closed these avenues in two trades. In 1975, the legislature enacted a bill requiring all apprentices employed in the plumbing trade to be registered with MAB. This provision closes the avenue allowed in section 66-2402 that applicants to the Board of Plumbers for a journeyman's license may qualify on the basis of "working four (4) years in a major phase of the plumbing business". The State Electrical Board has issued a ruling, effective December 4, 1976, that all those training in the trade employed by firms must be apprentices. This ruling precludes the provision of section 66-2807(2)(a) that an applicant for state licensure as a journeyman electrician may qualify on the basis of "four (4) years practical experience".

If a trainee's employer refuses to sign an apprenticeship agreement or an applicant is not selected by a JATC as an apprentice, he has no way of completing the prerequisites for licensure in Montana.²⁸

3. Coordination with vocational-technical education and adult education courses

Throughout its study, the subcommittee sought evidence on the relationship between apprenticeship programs, vocational-technical, and adult education courses to learn whether they competed against each other, worked in concert with, or operated independently of each other. The subcommittee hoped that this information would show the career opportunities for Montana youth in trades and crafts and how they might be improved.

The subcommittee learned that although both programs train Montana youths for some of the same trades, there are few statutory links between them. Most of the existing cooperation between the two depends upon personal ties and informal agreements.

The chief statutory link is section 41-1202, R.C.M. 1947, which states:

Related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of state and local boards responsible for vocational education.

The office of the Superintendent of Public Instruction (OSPI) has been fulfilling this responsibility for the Board of Public Education by: (1) informing school districts of the presence of apprentices in the district and of their need for supplemental training; (2) informing apprentices and their sponsors when supplemental training is available in the area; and (3) examining the programs of JATC's who apply for reimbursement from adult education money for part of the cost of supplemental training.²⁹ OSPI does not, however, monitor the supplemental training offered by JATC's or individual sponsors who do not apply for public funds.³⁰

The use of adult education funds for apprenticeship training has been questioned in some cities. Difficulties have arisen in local districts when apprentices' supplemental classes were held in public school buildings because (1) the apprentices' classes, although funded with public money, are not open to the public; and (2) the apprentices usually do not pay a fee for the training, although participants in other adult education programs do. One adult education supervisor noted that he felt "on thin ice...(and) apprehensive of how exclusive these classes can be in a public institution supported by public funds."

JATC's argue that the classes are open to the public in that apprenticeship openings are widely advertised to the public and apprentices chosen from those applying. Being accepted into an apprenticeship program is merely a prerequisite to the course. Since the courses are funded for the most part by JATC's and employers, they argue that classes should be limited to apprentices.³¹

At present, the Board of Public Education has no particular policy on apprenticeship training. Partially as a result of the sub-committee's interest, the Board is currently considering the topic and plans to adopt policies in the area in its new policy manual.³²

Several administrative links exist in addition to the statute. The State Plan for Equal Employment Opportunity in Apprenticeship provides that the affirmative action plans of apprenticeship sponsors shall, in certain cases, include positive steps for:

"Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs."

Informal lines of communication insure this cooperation in many instances. In Great Falls, for example, an instructor in the high school's vo-ed program meets regularly with JATC's to advise on the supplemental training. Seventy percent of the JATC's responding to a subcommittee questionnaire indicated that they met with vo-tech officials to "discuss the curriculum of courses or the numbers admitted to vocational-technical courses. These lines of communication, of course, depend on personalities and friendly relations. In one town, cooperation is reported to have broken down when a vo-tech director did not fulfill his agreements for training with JATC's. Most JATC's stopped using the vo-tech facilities and some built their own training centers. With the advent of new vo-tech staff, JATC's are beginning to use the vo-tech center again.³³

Determining whether Montana's vocational education system competes with apprenticeship programs, works in concert with them, or whether the two serve different purposes is very difficult, given the few records kept by both programs.

As Table VIII shows, vocational-technical centers teach courses in trades the Montana Apprenticeship Bureau recognizes as apprenticeshipable. Graduates of the vo-tech courses may not be equivalent to graduate apprentices in speed and on-the-job experience but many of them do find employment in the trade at various entry levels. Table IX lists the relative numbers of apprentices and vo-tech students employed in selected trades in 1975.

Some of the vo-tech students listed as employed may, in fact, be working as apprentices in the trade. However, lack of records makes this impossible to document. OSPI's forms for the annual follow-up of students do not differentiate between those employed in the trades and those working as apprentices.³⁴ At the beginning of the study, MAB's records did not show whether an apprentice had completed vocational school, although Montana Administrative Code rules seem to require it. The bureau has now undertaken to keep the necessary records.

On the other hand, apprentices who quit their employment before completion of their agreement or who are laid off may take the jobs vo-tech graduates would be qualified for. In several recent years, the number of apprentice cancellations has been higher than the number of completions:

APPRENTICE CANCELLATIONS

	<u>No. Active Apprentices</u>	<u>Cancelled Programs</u>	<u>Completed Programs</u>	<u>New Regis- trations</u>	<u>Active % Cancelled</u>
1968	703	190	158	398	27%
1973	1,360	153	94	533	11%
1975	1,758	432	333	844	25%
1976	1,645	304	257	485	17%
(thru June)					

TABLE VIII

COURSES OFFERED AT MONTANA'S
VOCATIONAL-TECHNICAL CENTERS
IN TRADES WHICH THE APPRENTICESHIP
BUREAU REGISTERS¹

Helena Vocational-Technical Center

Diesel Mechanic	Building Trades (Carpentry)
Agricultural Mechanic	
Airplane Mechanic	
Auto Mechanics	

Missoula Vocational-Technical Center

Welding
Heavy Equipment Maintenance

Billings Vocational-Technical Center

Auto Body Repair
Auto Mechanics
Drafting
Farm Equipment Mechanics
Welding

Butte Vocational-Technical Center

Automotive Mechanics
Drafting
Welding

Source: Compiled from OSPI follow-up statistics, 1975 and
MAB Apprenticeship Totals for Year Ending June 1975,
DOT Occupation list.

¹Since the titles of courses and occupations vary so
markedly, only those trades which are taught at the vo-techs
and in apprenticeship programs under the same names are listed.

TABLE IX

RELATIVE NUMBERS OF
APPRENTICES AND VOCATIONAL CENTER
STUDENTS WORKING IN SELECTED TRADES

	All Apprentices Registered in the Craft, FY 1975	Vocational Students Educated in the Craft Finding Employment in Field, FY 1975
Auto Body Repair	53	12
Auto Mechanics	101	80
Airplane Mechanic	5	8
Diesel Mechanic	23	6
Heavy Equipment Mechanic	0	--
Heavy Truck Maintenance	--	9
Heavy Equipment Maintenance	--	10
Draftsmen	5	16
Farm Equipment Mechanics	21	22
Welding	2	66

Source: OSPI follow-up figures 1975.MAB, Apprenticeship Totals, FY 1975.

However, the reasons for cancellations and whether apprentices remained employed in the field have not been compiled.³⁵ Thus, no records exist at present to indicate whether vocational-technical school graduates are more likely to be admitted to apprenticeship programs than other applicants.

Similarly, the MAB has no records that show whether apprentices who have completed vocational training receive credit in the apprenticeship program for their skills. Although the State Plan for Equal Employment Opportunities in Apprenticeship requires sponsors' affirmative action plans to contain, in some cases, "specific steps (for) ... granting advance standing or credit on the basis of previously acquired experience, training, skills or aptitude for all applicants equally," and charges the MAB with determining whether the sponsor is fulfilling the plan, the Bureau heretofore has not required details about the type of training or experience or its length before approving the apprenticeship agreement.³⁶ Sixty percent of the JATC's responding to a questionnaire indicated that they did give credit for vocational training or work experience. Most indicated that no standard policy existed for granting the credit; it depended on the individual apprentice and his skills.

Therefore, determining whether vocational-technical centers and apprenticeship programs are competing, working in concert, or training for different areas is not possible with the available information.

Vocational-technical center directors report that the two systems are training students for different job markets and are, thus, fairly independent of each other. However, they did suggest that more formalized avenues of cooperation would guarantee that competition did not develop.³⁷

Future expansion might increase possibilities for competition. In a 1975 survey conducted for the Montana State Advisory Council for Vocational Education, five vocational-technical centers were considering adding courses in apprenticeable trades. The MAB predicts, in its turn, that the number of apprentice and on-the-job trainee registrations will increase 100 percent in the next five years.³⁸

During the study, the Department of Labor and Industry realized the deficiencies of the record-keeping and compiled a new form that will include information on prior experience and education and the credit apprenticeship sponsors allow for it.³⁹ This new record system will allow future studies to learn whether Montana youth graduating from state vocational education courses are more readily accepted into apprenticeship plans.

4. Further opportunities for apprentices

In concluding its study, the subcommittee tried to learn whether

opportunities for apprenticeship training in Montana would increase if the state took a more active role. The results of a survey and testimony received at three meetings suggest that state intervention would not be a significant help.

The subcommittee's survey of 100 businesses produced evidence that while many businessmen regard apprenticeship as a superior way of training workers, they were sometimes reluctant to sign apprenticeship agreements.

Sixty-four percent of the responding businesspersons believed that "workers who have completed apprenticeship training [are] more thoroughly trained than workers trained by other methods". However, other types of training were also praised. One company that employs 400 skilled workers said "Vocational-technical school trained persons are more qualified and require less on-the-job training." A small shoe and saddle repair company owner commented "Although apprenticeship training is apparently a quite successful form of training, for the crafts that I'm involved in, a form of trade school experience would be helpful.". Even those who found apprenticeship programs to be the best indicated that there were problems with the program.

Fifteen percent of those responding commented upon the amount of paperwork involved in apprenticeship programs. A certain resistance to apprenticeship programs appeared to exist simply because the programs were regulated by state government. Others seemed uninformed about the program. Several respondents were under the impression that only veterans could be registered as apprentices and others believed that unions controlled all aspects of the program. A business association noted that "in some cases, our members have never had the State Apprenticeship Program explained to them."

Many employers complained that apprentices left during their training or soon after it was completed, taking the employers' investment in their training with them. This was not universal. Fifty-nine percent of those completing apprenticeships stayed with their training company from 3 to 30 years. However, 41 percent of those completing apprenticeships did leave within 3 years. Further, 69 percent of all the businesses replying indicated that at least one apprentice they were training cancelled before completion. About 25 percent of these cancellations were by the employer, who found the apprentice ill-suited to learn the trade or who was forced to lay him off due to business slowdowns. Of the 75 percent who cancelled themselves out, 26 percent went to jobs offering better pay, 10 percent didn't like the work, and 30 percent quit to go back to school, to relocate, or for family or personal reasons. The cost of interrupted training to the employer was considerable. As one respondent said, apprenticeship training often is "too much time involved training people for someone else."

The cost of apprentice training was a large issue to many employers.

Forty percent of those who indicated that they would not hire more apprentices cited expense as the reason. Fifty percent of all the respondents to the questionnaire said they would hire more apprentices if the state shared the cost. A suggestion that the apprentice himself pay part of the cost was not so welcome: only 31 percent of those responding indicated that they would hire more apprentices under this condition.

Almost one-half of the respondents, however, would not train more apprentices even if the state or the individual trainee shared the cost. The reasons varied, but reluctance to accept governmental aid and restrictions, lack of openings in the business, and dissatisfaction with apprenticeship programs were frequently mentioned.

Since many respondents were not eager to hire more apprentices, it is difficult to determine whether the number of apprentices admitted by the JATC's is smaller than the job openings. The 29 percent of businesses who indicated they would hire more apprentices if available suggests that some increase in opportunities for apprenticeship might exist if the MAB program were more widely known.⁴⁰

IV. SUBCOMMITTEE DELIBERATIONS AND PROPOSED BILL

The subcommittee considered Montana's apprenticeship program at all five of its meetings. Testimony was received at several meetings; at the May 15 meeting, 31 representatives from labor and industry and the state and federal programs attended and spoke.

As a result of the subcommittee's study, several important administrative changes occurred:

- (1) The Montana Apprenticeship Bureau announced that the maximum age limit set on apprenticeship agreements will be deleted, in accordance with section 64-306.

- (2) The Bureau agreed to keep records of the length and type of previous experience or vocational-technical training qualifying an apprentice for credit in an apprenticeship program. These records will allow MAB to determine whether credit is uniformly given and whether vocational-technical school graduates do have increased opportunity to enter apprenticeship programs and complete them more quickly as a result of their training.

- (3) The Board of Public Education plans to re-examine its statutory responsibilities toward apprentices' training and to determine who should monitor their supplemental training.

At its November 6 meeting, the subcommittee voted 6 to 3* to recommend a bill allowing credit to be given toward apprenticeship

*For: Senators Rosell, Regan, Nelson, Representatives Wood, Lory, Stoltz; Against: Senators Blaylock and Lee, Representative Gilligan; Absent: Senator Olson, Representatives Ellis and Wolfe.

training required for licensure of electricians, plumbers, and warm air heating, ventilation, and air conditioning mechanics. This bill appears in Appendix E.

The subcommittee believes that statutory recognition of classroom work, coupled with MAB's increased awareness of credit given for vocational-technical education, will provide a clearer avenue of entry for Montana youth into crafts and trades.

After much discussion, the subcommittee decided not to recommend further legislation. The essentially voluntary nature of apprenticeship programs, the complexity and differences among the types of programs, and the lack of available data prompted this decision. The subcommittee concluded that the changes produced by its study and the recommended bill would remedy the immediate problems the study found. The information the subcommittee gathered in the first legislative study of apprenticeship ever undertaken in Montana will aid future discussion of the direction vocational education in Montana should take.

V.

MINORITY REPORT

I voted against the Subcommittee's bill to allow recognition of classroom training as part of the apprenticeship training required for state licensure for two reasons.

First, the bill does not apply the same rules for all apprenticeship programs or for all licenses. There are over 60 apprenticeable trades and 130 occupations licensed in Montana. Yet, this bill refers to only three trades.

Second, the bill does not accomplish anything. Under existing laws and rules, employers and joint apprenticeship training committees can and do give credit to apprentices for classroom training. Simply stating in statute a provision that already exists does not aid either apprentices or employees.

For these reasons, I oppose the bill.

Senator Robert E. Lee

Senator Chet Blaylock

Representative Peter Gilligan, Jr.

OCCUPATIONAL LICENSING

I. PURPOSE

Occupational licensing developed in America in the belief that the public, for its own safety and welfare, must protect itself from incompetent practitioners of occupations affecting the public interest. Licensing laws relieve the individual of the burden of investigating the training and skill of the doctors, dentists, morticians and other professionals by allowing only those certified as competent by the state to practice. Court rulings have held that licensing laws restricting the "inalienable right to follow any ... occupation of life" are constitutional when they protect the public interest.⁴¹ In 1954, the Montana Supreme Court held that licensing laws not clearly protecting the public contravene both the federal and state constitutions.⁴²

The phrasing of Montana's licensing laws clearly establish the public interest as the reason for their existence: "to preserve the public health and prevent the spread of disease", "to protect the health and general welfare", "to protect the health and safety", "the practice of acupuncture ... affects the public health, safety, and welfare and should therefore be subject to regulation and control in the public interest ...".

II. STRUCTURE

Two main types of licensing have evolved in most states: licensing by state agencies and licensing by state boards composed of professional peers.⁴³

Licensing by the state is the most common. Egg graders, insurance adjustors, nurserymen, and taxidermists, for example, are licensed in most states by this method. These licenses usually require only registration with the state and the payment of a fee, although some may require an examination, bond, citizenship, or proof of good character. The applicant's fee goes, in most cases, to the general fund of the state. The licensing agent -- who may be the commissioner of agriculture, the head of the department of health or the revenue department, or of many other agencies in various states -- has considerable power to set the standards of the occupation within the framework of the statute, to determine who qualifies under these laws, and to review cases in which rejected applicants appeal the ruling.⁴⁴

Montana licenses 73 occupations by this method, as Table X shows. Forty-five of these licenses require only registration and payment of a fee; seven require an examination, registration, and a fee; eleven registration, fee and proof of good character; and ten require various other qualifications. The subcommittee determined early in the interim that limited time and staff resources

TABLE X
OCCUPATIONS LICENSED BY OTHER MONTANA
DEPARTMENTS AND AGENCIES

Occupational licenses requiring payment of fee only:

aeronautics instructor
airman
ambulance operator
beer retailer and wholesaler
builder
butcher and meat peddler
cesspool cleaner
cigarette wholesaler
commissioner of co-operative associations
contractor
drug and nostrum vendor
egg dealer
egg grader
employment agent
farm produce dealer
farm storage public warehouseman
fertilizer blender
fire extinguisher & alarm agent
grain weigher
hide dealer
huckster
itinerant merchant
junk dealer
laundry worker
malt & soft drink manufacturer
manufacturer
milk deliveryman
milk producer & dealer
motor carrier
motor vehicle dealer
mustard seed dealer
nurseryman
pawnbrokers
pesticide applicator
pesticide dealer
petroleum products' dealer
railroad warehouseman
sawmill operator
seed labeller
seed buyer
seed dealer
seed warehouseman
sloppers
taxidermist
water treatment systems operator

Occupational licenses requiring examination and fee:

artificial inseminator
Babcock test operator
chauffeur
fireman, first, second, & third class (license also requires experience)
hoisting engine operator, first and second class
insurance (other than life) agent or solicitor (also requires minimum age 18, residence in Montana; proof of good character, and employment by insurance firm)
life and disability insurance agent (also requires residence in Montana or reciprocating state, proof of good character, and employment by insurance company. The applicant may not be a funeral director or mortician.)

Occupational licenses requiring payment of fee and proof of good character:

brewer
day care worker (experience and educational standards may also be required)
health service enrollment representative
horse race promoter
insurance agent for fraternal or benevolent society
loan and stock agent (proof of employment also necessary)
manufacturer of narcotic drugs
produce wholesaler (license also requires bond)
public contractor (license also requires bond)
secondhand car dealer
surplus line agent (license also requires bond)

Other requirements:

adoption agent - proof of qualification "on the basis of professional education and personality" and payment of fee
beer wholesaler - residence in Montana and payment of fee
falconer - minimum age of 12 and payment of fee
foster or boarding home operator - no fee required but must meet such standards as the Department of Social and Rehabilitation Services may establish
gambling dealer - residency in Montana for at least one year, U.S. citizenship, proof of good moral character and payment of fee
insurance adjuster - minimum age 21, residence in Montana or reciprocating state, proof of good character and payment of fee
insurance consultant - membership in national professional organization and payment of fee
lobbyist - adult age, U.S. citizenship, proof of good moral character and payment of fee
outfitter and professional guide - residency in Montana, U.S. citizenship, proof of knowledge and experience in the field, posting of bond and payment of fee
stocks salesman - one years' residency in Montana, posting of bond and payment of fee

prevented it from including all types of licensing in its study. It decided to limit its study to "self-regulatory licensing".

The second type of licensing, which is currently receiving national scrutiny, is "self-regulatory licensing" or licensing by a board of professional peers who have been appointed and authorized by the state to issue licenses. The first state boards began to develop before the Civil War, spurred by the newly-developed doctors' professional associations. These professional groups sought legal standing for the professions' efforts to assess the qualifications of those entering the field, to guarantee the public reliable and uniform standards of service, and to insure that practicing members upheld standards. Other professional groups followed suit. Today, peer-boards issue licenses to many professions -- from a national low of 26 professions in Alaska to a high of 56 in Michigan.⁴⁵

In Montana, state boards license 35 professions, as Table XI shows. These boards, which are administratively attached to the Department of Professional and Occupational Licensing, are composed primarily of professional peers. Nine boards also contain members of related professions, 5 representatives of state agencies and departments, and 6 include lay or consumer members. Appendix C shows the statutory composition of each board.

These boards have been given "quasi-judicial, quasi-legislative" powers by the legislature.⁴⁶ In general, they have the authority to determine which applicants meet the qualifications established by law, test these applicants, issue licenses, judge complaints brought against licensees, suspend or revoke licenses, and hear appeals brought against the boards' decisions. Statutes give several boards even broader powers. Ten boards have the right to approve educational institutions or courses and two have the right to approve minimum price agreements among licensees. These powers are discussed more fully below.

III. ENTRY INTO LICENSED OCCUPATIONS

A. National Concern over Occupational Licensing

Both federal and state governments are currently re-examining the purpose and efficiency of licensure by state boards. The U.S. Department of Labor is collecting information for a nationwide study of the qualifications for licensure. Interim legislative subcommittees in 15 states have recently considered the topic. The National Council of State Legislatures has identified occupational licensing as a key issue facing states in 1977.⁴⁷

The chief reasons for this widespread concern are: (1) the rapid proliferation in the number of occupations licensed and (2) growing evidence that boards composed of peers have been more

TABLE XI
Requirements Beyond Examinations For Licenses Issued by the Department of
Professional and Occupational Licensing

Age	Education	Good Moral Character	Apprenticeship	Experience	U.S. Citizenship	Montana Residency	Other
Abstracter							
Acupuncturist	Graduate of Board approved school of acupuncture	required		3 years in Montana Abstract office	Yes or intent		
Certified Public Accountant	Graduate of approved college or university	required		1 year	Yes or intent	Yes	
Licensed Public Accountant	Graduate of approved college or university	required		1 year	Yes or intent	Yes	
Architect	Must fulfill requirements of education and experience established by the national code of architectural registration board						
Barber	1500 hours in barber school		1 year				
Barber school teacher		required		10 years			bond
Chiropractor	Graduate of Board-approved 4 year chiropractic college and 2 years pre-professional college education	required					

	Age	Education	Good Moral Character	Apprenticeship	Experience	U.S. Citizenship	Montana Residency	Other
Cosmetologist	18	8th grade graduate 2000 hours at reg- istered beauty school	required					Health certi- ficate
Cosmetology Teacher		High school grad- uate or equivalent and 500 hours in student teacher training at registered school of cosmetology			Practicing as a licensed cosmet- ologist for 3 years prior to application, the last year in Montana			
Dentist		Graduation from recognized dental school	3 affidavits of good character					Photo- graph
Dental Hygienist		Graduate of ap- proved school of dental hygiene	required					
Electrician, Journeyman				4 years or	4 years			
Electrician, Master		Graduate electrical engineer of an accredited college or graduate of elec- trical trade school and 4 years prac- tical experience or 5 years practical experience			1 year			
Electrologist	18	Board to fix education require- ments						

Age	Education	Good Moral Character	Apprenticeship	Experience	U.S. Citizenship	Montana Residency	Other
Engineer - in - Training	Graduate of 4 years engineering curriculum at approved college						
	Or Graduate of 4 years engineering related curriculum			4 years			
	Graduate of 4 year engineering curriculum at approval college			4 years			
Engineer, Professional	Or Graduate of 4 year engineering - related curriculum at approval college			8 years			
	Or None			20 years			
	High school graduate or 3 years experience as dispenser	required					
Landscape Architect	1 year education may be substituted for 1 year experience up to 5 years			6 years of a nature satisfactory to Board			
	BS in approved curriculum or 2 years of college and six years of combined office and field experience	required		4 years combined office and field			
Land-surveyor							

Age	Education	Good Moral Character	Apprenticeship	Experience	U. S. Citizenship	Montana Residency	Other
Land - Surveyor -	BS in approved curriculum or 2 years college and 4 years combined office and field experience			2 years combined office and field experience			
Masseur	Graduate of 1000 hours at approved school of massage	required					
Midwife	Certificate from American College of Nurse-Midwives			Holds RN license			
Mortician	Graduation from accredited school of mortuary science and two years of college with a C average	required		1 year apprenticeship under licensed Montana mortician			
Nursing, Practical (LPN)	High School graduation or equivalent and graduation from an approved practical nursing course						
Nursing, Professional (RN)	High School graduation or equivalent and graduation from approved school of nursing						
Nursing home administrator	High School diploma or equivalent and graduate of Board-approved course of study in subject or 4 years experience in administration	required					Health certificate required photograph

Age	Education	Good Moral Character	Apprenticeship	Experience	U. S. Citizenship	Montana Residency	Other
18	High school graduate, graduate of accredited 4 year school of optometry	required			Yes		
	High school graduate or equivalent and 2 years pre-professional college education and 4 years professional education in an approved osteopathic college	required					Personal appearance before board
Pharmacist	Graduate of approved school of pharmacy	required	Internship-length determined by the Board		Yes		
Physical Therapist	Graduate of approved school of physical therapy	required					
Physician	Graduate of approved medical school	required	1 year internship		Yes		Personal appearance
Plumber, journeyman				4 years experience, completing apprenticeship, or credit toward this by completing Voc Tech course			
Plumber, master				4 years as journeyman, 3 of which in supervisors capacity			

Age	Education	Good Moral Character	Apprenticeship	Experience	U.S. Citizenship	Montana Residency	Other
	High school education or equivalent and 4 years at Board approved school of podiatry,	required					
18	High school graduate or equivalent	5 references required		Two years' experience	Yes	Yes	restrictions for convicted criminals; photographs, fingerprints, bond required
	"	"		One year experience			
18	Doctoral degree in subject from accredited university			Two years' experience		Residency or intent	
18	Graduate of Board-approved course of radiologic technology	required non-addicted to use of alcohol or drugs					
18	High school graduate or equivalent	required		Two years' experience as real estate salesman			bond
18	2 years high school	required		Have the recommendation of licensed broker by whom the salesman will be employed			bond
	Graduate of accredited college with a minimum of 30 hours in physical & biological sciences			considerable knowledge of public health sanitation practices and laws			

Age	Education	Good Moral Character	Apprenticeship	Experience	U.S. Citizenship	Montana Residency	Other
Speech Pathologist	Academic and clinical experience as established by American Speech and Hearing Association						
Veterinarian	Graduate of approved veterinary medical school	required			Yes		
Veterinary technician	Graduate of approved school of veterinary technology	required					bond
Master of warm air heating, ventilation or air conditioning				5 years experience			
Journeyman				4 years experience or apprenticeship (credit toward must be given for Vo-tech courses)			
Apprentice mechanic			Registration with Montana apprenticeship council required				
Waterwell contractor	Knowledge of field in Board's opinion		1 year				"good + sufficient bond"

interested in determining who entered the profession than monitoring their performance once licensed. Many lawmakers are beginning to ask whether the restrictions on job entry and mobility imposed by licenses are efficiently protecting the public interest.⁴⁸

The Montana legislature and Supreme Court have been aware of the restrictive possibilities of peer licensure for many years. In 1962, an interim committee noted:

"It is often assumed that these boards are of concern only to the groups they regulate, but this is not the case. Licensing boards are created by law and use the powers of the state to exact moneys in the form of license fees. Their discretion in granting, refusing, or revoking licenses is the power to destroy just as is the power to tax. Consequently, the activities of these boards cannot be disregarded as insignificant. The only justification for granting them such broad powers is the protection of the public health and welfare."⁴⁹

The Supreme Court, in its 1954 decision declaring statutes requiring the licensure of photographers by the Photographic Examiners Board unconstitutional, voiced this same warning:

"Statutes regulating trades and occupations by the delegation of governmental power to boards and commissions formed largely of the groups affected, intended primarily to control the personnel of the business, have become so common as to affect progressively and importantly the social and economic life of the State..."

"The stage of internal protest has been reached. In marginal cases controversies in the courts have arisen as to whether the organization has captured a sufficient quantum of public purpose to operate as an agency of the government, or whether the police power of the State, ostensibly exercised for a public purpose, is not really farmed out to a private groups to be used in narrowing the field of competition, or in aid of exploitation by creating remunerative positions in administration..."

"It is this power of exclusion of fellow workers in the same field that gives to the subject its social significance, and invites our most serious consideration of the constitutional guaranties of personal liberty and individual right called to our attention."⁵⁰

Determining what is protection of the public interest and what is creation of artificial barriers to entry in order to control competition is a very difficult problem. The subcommittee

gathered the following data on conditions of entry into Montana's professions in its study to determine whether artificial barriers to entry did, in fact, exist.

B. Proliferation of Licenses

The existence of a requirement for licensure is a barrier to entry. Whether this barrier is necessary or artificial depends on the licensed occupation's relation to public health and safety.

The number of occupations licensed by Department of Professional and Occupational Licensing (DPOL) boards is accelerating, as Table XII illustrates. During the first 50 years of licensure, the legislature established licensing boards for 19 occupations. In the past 28 years, the legislature has created 19 more peer boards to license occupations. Ten of these boards have been added in the past six years.

The quickening pace is in part a response to the increasing specialization and complexity of modern life. However, the criteria for deciding which new occupations affect the public health enough to require licensure have not been publicly examined in many years. With many professional associations seeking state licensure, legislators may have difficulty determining what protection the public health really requires and whether licensure is the most efficient way to insure that protection for all occupations.

The circumstances surrounding one of the latest occupations licensed -- warm air heating, ventilation, and air conditioning -- suggest that more research of the public need for licensure and the conditions of the occupation may be necessary before legislation. In February 1976, the Billings district court granted an injunction against implementation of the 1975 law requiring licensure of the occupation to two firms questioning the constitutionality of the law. The complaints raised against the law were that the experience requirements for the "grandfather" license were too broad (actively engaged in warm air heating, ventilation, and sheet metal work), that large companies like Montana-Dakota Utilities could not possibly comply with the law that all its shareholders owning more than 10 percent of stock must be licensed as master mechanics, and that many applicants were unable to secure the \$15,000 bond required for licensure. The entry requirements have been termed "too high" by many in the trade.⁵¹

C. Education and Experience Requirements

The statutory education and experience requirements for entry into occupations licensed by DPOL are shown in Table XI.

Because of the number, diversity, and technical nature of these occupations, the subcommittee did not attempt to analyze the requirements for each occupation to determine whether they were

TABLE XII

THE GROWTH OF PROFESSIONS AND LICENSING BY STATE BOARDS

<u>PROFESSION OR OCCUPATION</u>	<u>YEAR FIRST LICENSED</u>	<u>PROFESSION OR OCCUPATION</u>	<u>YEAR FIRST LICENSED</u>
Physician	1889	Plumber	1949
Attorney	1889	Practical Nurse	1953
Dentist	1889	Sanitarian	1959
Pharmacist	1889	Physical Therapist	1959
Osteopath	1901	Water Well Contractor	1961
Optometrist	1907	Real Estate Agent	1963
Registered Nurse	1911	Electrician	1965
Veterinarian	1913	Masseurs	1967
Architect	1917	Hearing Aid Dispensers	1969
Chiropractor	1918	Nursing Home Adminis-	
Chiropodist	1923	trators	1969
Cosmetologist	1923	Psychologists	1971
Barber	1929	Private Investigators	1974
Abstracter	1931	Acupuncture	1974
Accountant(public)	1933	Midwives	1974
Dental Hygienist	1935	Heating, Ventilation,	
Photographers (later repealed)	1937	and Air Conditioning	1975
Mortician	1941	Electrologists	1975
Professional Engineer &		Radiologic Technologists	1975
Land Surveyor	1947	Landscape Architects	1975
		Speech Pathologists	1975

Sources: Revised Codes of Montana, 1947

necessary to protect the public. The subcommittee, instead, discussed the difficulties the boards encounter in determining who meets the statutory qualifications.

The subcommittee learned that statutes force several boards to use discretion in deciding whether applicants may take the licensing examination. The State Electrical Board, for example, decides whether an applicant's experience is sufficient to qualify him for the examination. In Fiscal Year 1975, out of 182 applicants the board ruled that 35 were ineligible for the examination. The board interprets the statutory "four years practical experience" for a journeyman's license as meaning four years of fulltime work or 8,000 hours. Persons with fewer hours of experience are usually not allowed to take the examination. The board regards this experience requirement as important, since the licensing test is written and applicants are not required to prove their practical mastery of the trade.

Similarly, the Board of Professional Engineers and Land Surveyors must decide if applicants' experience is "of a character satisfactory to the board". In Fiscal Year 1975, 22 of the 281 applicants were not allowed to take the examination because of insufficient experience.

The Board of Plumbers must also make judgements on whether applicants' experience is "of a character satisfactory to the board".

Rejected applicants may appeal their rejection to the board and district court. In Fiscal Year 1975, 8 of the 35 rejected applicants for the electricians' license appealed to the board. Three were approved for the license they sought and two for a lower grade license.⁵²

The subcommittee also learned that the test used by one board makes classroom experience a practical necessity for licensure, although statutes do not require it. In Section 66-1929, high school graduation or its equivalent is the only educational requirement for licensure as a real estate broker or salesman. The Board of Real Estate, however, sponsors a week-long course, costing approximately \$150, to applicants desiring to prepare for the test. At least one private school also offers a preparation course. The results of the board's examinations show that applicants who do not take one of the courses are very unlikely to pass on their first attempt.

FISCAL YEAR 1975

	<u>% Salesmen passing on first attempt</u>	<u>% Brokers passing on first attempt</u>
Board-sponsored schools	51%	34%
Private schools	54%	41%
No classroom experience	0%	0%

D. Tests

By statute, all boards require applicants to pass an examination for licensure. Ten boards use examinations written by national testing services to test the applicants, to simplify the grading process and to eliminate charges of discrimination. The other boards use examinations constructed by themselves and members of the profession. Licensing laws set the percent of correct answers necessary to pass the examination in some professions, but in most this is established at the discretion of the board.⁵⁴

The percentage of examinees' passing each board's test in Fiscal Year 1975 is shown in Table XIII. The success-ratio varies markedly from profession to profession: from 100 percent for those taking the massage therapy, mortician, nursing home administrator, or private investigator examination to 24 percent passing the public accountants' test.

Failed applicants may re-take the exam one or more times, depending on statute or board rule, if they pay an additional testing fee. This does raise the entry fee to certain professions. The subcommittee learned that the average number of times an applicant takes the real estate salesman's test before passing is 2.5 times and 1.5 times to pass the broker's exam. Since the Board of Real Estate charged \$50 for each retake, the actual cost of entry has been near \$150 for salesmen and \$100 for brokers. The subcommittee learned that the national testing service charges the Board of Real Estate \$6 for each test.⁵⁵

As a result of the subcommittee's questions, the board proposes to lower the cost of re-examination to \$20.

E. Reciprocal Licensing

In 26 professions, reciprocal licenses for professionals licensed in another state are established by law. In most cases, the boards require only that the education, examination, and experience requirements of the licensing state are equivalent to Montana's. In 11 occupations, however, reciprocal licenses are not available:

- abstracters
- athletes
- barbers
- dentists
- plumbers
- private investigators
- land surveyors
- real estate salesmen and brokers
- veterinarians
- water well diggers
- masters and journeymen of heating, ventilation,
and air conditioning

TABLE XIII
OUTCOME OF APPLICATIONS, FISCAL YEAR 1975

	<u>Applicants</u>	<u>Exams Given</u>	<u>Examinees Passed</u>	<u>Percent of Examinees Passed</u>
Abstracters	NA	4	4	1.00
Architects	NA	19	14	.736
Barbers	NA	38	32	.842
Chiropractors	NA	16	14	.875
Cosmetologists	NA	231	210	.909
Dentists	NA	62	47	.758
Dental Hygienists	NA			
Electricians	182	76	65	.855
Hearing aid Dispenser	NA	15	11	
Massage Therapists	NA	7	7	1.00
Physicians	NA	16	9	.562
Morticians	NA	16	16	1.00
Nurses	NA	396	355	.89
Nursing Home Administrator	NA	56	56	1.00
Optometrists	NA	9	7	.777
Osteopaths	NA	0		
Pharmacists	NA	56	49	.875
Plumbers	NA	65	39	.600
Private Investigators	NA	40	40	1.00
Professional Engineers	NA	368	280	.760
Land Surveyors	NA			
Psychologists	NA	7	6	.857
Public Accountants	NA	362	88	.243
Real Estate	NA	652	215	.329
Sanitarians	18	18	17	.944
Vetrinarians	NA	45	42	.933
Waterwell Diggers	17	17	16	.941

NA - Number of applicants not tabulated by Board.

Sources: Chart prepared by Ed Carney, Director of Professional and Occupational Licensing. Information from separate boards.

The reasons why reciprocal licenses are not issued in these professions is not specifically stated in the statutes; in most cases, reciprocal licenses are simply not mentioned. The act licensing land surveyors, however, does indicate the land surveying laws specific to Montana are the reason; land surveyors registered in another state are required to demonstrate knowledge of these laws for licensure.⁵⁶

In three cases, statutes do allow reciprocal licenses to be issued, but the boards are not implementing the section. Section 66-906(2), for example, allows the Board of Dentistry to waive the theory examination for a dentist licensed in another state. The other state must "extend a like privilege ... to dentists licensed by this state, who move to the other state" and have licensing laws "practically identical" with Montana. To date, the Board has not entered into reciprocal relations with any state and requires all applicants to take both the theory and practical examination. Similarly, the Board of Veterinary Medicine is empowered to make "agreements with similar boards in the several states ... whereby due credit for state and territorial licenses may be allowed" to veterinarians licensed in those states to practice here and veterinarians licensed in Montana to practice there. The Board has no reciprocal agreements, requiring all applicants to take the examinations. The boards have made this policy because no other states extend reciprocity to Montana licensees.⁵⁷

In the past, the Board of Real Estate has licensed nonresident brokers (those licensed in another state and maintaining a business there but who do some business in Montana) as allowed by section 66-1936. During the past several years, however, the Board has rejected all applicants for the license because it wants to force other states to enact complete reciprocity with Montana.⁵⁸ While section 66-1936 does provide "the Board may, in its discretion, refuse to authorize the department to issue a broker's license for an applicant who is not a resident of the state", the Board has promulgated rules for the issue of nonresident licenses but has chosen to stop issuing them.⁵⁸

The policies of the Board of Real Estate are also creating reciprocity problems for applicants living in the state. According to section 66-1929, an applicant for the brokers' examination must be a U.S. citizen, be at least 18 years old, be a high school graduate, and

"have been actively engaged as a licensed real estate salesman for a period of two (2) years or shall have had experience or special education equivalent to that which a licensed real estate salesman would ordinarily receive during this two (2) year period as determined by the board."

The Board's interpretation of this section is that the 2 years of experience must be gained in Montana. Since September 1974, the Board has ruled that 75 percent of the applicants who had received their experience in other states but now live in Montana were ineligible for the examination. Four applicants receiving their experience in other states were allowed to take the examination.⁵⁹

A suit has been filed against the Board on this point and was pending hearing in Lewis and Clark County at the time this report was written.⁶⁰

F. Bonding Requirements

By statute, eight occupations licensed by DPOL require bonds. The occupations, amount of bond required, and annual cost to the licensee of maintaining the bond are:

<u>Occupation</u>	<u>Amount Required</u>	<u>Annual Cost</u>
barber school or college owner	\$ 2,000	\$20
cosmetology school operator	5,000	50
real estate broker or salesman	10,000	62
title abstractor (holder of certificate of authority	5,000	25
master plumber	5,000	25
water well contractor	1,000	20
master heating, ventilation, and air conditioning installer	15,000	injunc- tion in force
private investigator	2,000	20

Based on renewal figures, licensees paid over \$166,000 in bonding fees in Fiscal Year 1975.⁶¹

Most of these bonds are available to applicants who are well-established in the community and who have financial assets. Individuals with few assets or a poor credit rating may experience difficulty in getting any of the bonds required by the boards. In general, applicants must have assets in excess of the face value of the bond in order to be accepted by the bonding company.⁶² Two particular bonds, however, present difficulties for almost all applicants.

One is the \$2,000 bond required of an applicant for a private investigator's license. The bond is conditioned on the "faithful and honest conduct of his business by (the) applicant" and provides that any person damaged by the licensee may sue the bonding company for relief, as well as the licensee and the DOPL.

The other is the \$15,000 bond required of master heating, ventilation, and air conditioning mechanics. This bond is large and also allows injured persons to sue the bonding company directly, as well as the board and the licensee. Bonding companies say the "very broad language" of these bonding laws "scares away some sureties". Another company asserted "if the law remains the same, then installers are going to go out of business".⁶³

The bonding companies are reluctant to write these bonds because they allow an aggrieved consumer to sue the bonding company directly. The statutes requiring bond for other professions are written so that a consumer must sue the state licensing board to collect the bond. The state bears the attorney and court costs. The bonding company indemnifies the state to the face value of the bond if the state board loses its case. The bonding company, thus, is not liable for any cost above the face value of the bond. Further, the bonding company may refuse to surrender the bond to the state if, in its judgement, the state was negligent in its duties: i.e., it did not move rapidly enough to suspend a license. The state must then sue the bonding company for payment.

Bonding companies dislike statutes requiring bonds that allow consumers to sue the company directly because this increases their chances of loss. One company writing about 40 percent of the bonds in the state refuses to write bonds for private investigators or warm air heating, ventilation, and air conditioning mechanics for this reason.⁶⁴ Bonding companies refusal to write these bonds has forced at least one private detective firm to lose its state licensure.⁶⁵

In some cases, an applicant who is unable to secure a bond may deposit the full amount of the bond with the state.⁶⁶

Although bonds are generally considered as a protection for the consumer and were probably required by the legislature for that purpose, research suggests they are inefficient at doing so because:

- (1) consumers must secure a court judgement against the state before the bond will be surrendered; and the legal cost is greater than the grievance in many cases;
- (2) the amount of the bond is too small in most cases to cover the probable losses a licensee could inflict; and
- (3) over 60 percent of the occupations licensed by DPOL are not required to have a bond or liability insurance.

The fact that no bond has been used to pay a judgement during the last four years may be an indication of their failure to be a ready source of protection to the consumers.⁶⁷

Bonds do not add another avenue of consumer protection. Any person who feels he has suffered damages by an act of a licensee may complain to the county attorney. The licensee may be found in violation of the licensing laws (Title 66) and the deceptive business practices law (Title 94, Chapter 6). Injured parties may also report the case to the licensing board and the department, who may schedule a hearing to review the licensee's action. In addition, the complainant may sue in civil court for damages.⁶⁸ The only function of most bonds is to indemnify the state against loss.⁶⁹ The consumers' cost in bringing action against the licensee may be greater than the value of the bond.

G. Licensing Boards' Enforcement Programs

Nationally, licensing boards have been criticized for failure to monitor and discipline licensees. Critics say that lack of enforcement, if some licensees do behave unscrupulously or incompetently, undermines the rationale for licensing. If public safety requires the licensing of professions, then it must require that the state continue to monitor the licensee practices. When licensing boards have concerned themselves only with controlling the entry of licensees but not their future conduct, they have been charged with attempting to control the supply of licensees rather than with protecting the public interest.⁷⁰

In Montana, many boards rarely discipline licensees. As Table XIV shows, most boards didn't hold any disciplinary hearings or revoke or suspend any licenses last year. Fiscal Year 1975 was not an unusual year; the Board of Morticians 1970 Annual Report noted that the board had held no revocations in the last twenty years and added in its six-year plan for 1976-1982 "no hearings [are] anticipated [and] minimum legal expenditures". The Board of Medical Examiners revoked only 4 licenses and suspended one in the 12 years from 1960 to 1972 out of the 1,600 physicians holding licenses during those years. In its six-year plans, the Board of Professional Engineers and Land Surveyors noted that "no disciplinary hearings [are] anticipated", as did the Board of Sanitarians and the Board of Massage Therapists.⁷¹

These statistics may demonstrate that licensing is working very well and no persons ever abuse their powers after being licensed. However, few boards have a program to monitor licensee's performance. They become aware of consumer dissatisfaction only when a complaint is filed with the board. The Board of Medical Examiners, for example, commonly learns of a malpractice suit brought against a doctor only when it is announced in the newspaper.⁷²

Under the present structure of licensing, boards who do wish to monitor licensees face, in most cases, great fiscal difficulties. Individual board's revenue is generated by the licensing and

TABLE XIV

THE BOARD'S REGULATORY ACTIVITIES
Fiscal Year 1975

<u>Board</u>	<u>Investigators or Inspectors Employed</u>	<u>Disciplinary Hearings</u>	<u>Licenses Suspended or Revoked, FY 1975*</u>
Abstracters	Board members	0	0
Architects	0	0	0
Barbers	Board members	0	0
Chiropractors	0	0	0
Cosmetologists	1	0	1
Dentists	0	0	0
Electricians	12	0	0
Hearing Aid Dispensers	0	0	0
Landscape Architects	Law effective 7-1-75		
Masseurs	0	0	0
Medical Examiners	3 part-time	0	2
Morticians	Board members	0	0
Nurses	2 part-time	0	3
Nursing Home Administrators	0	0	0
Optometrists	0	0	0
Osteopaths	0	0	0
Pharmacists	1	0	0
Plumbers	1	1	0
Private Investigators	0	0	0
Professional Engineers & Land Surveyors	2	0	1
Psychologists	0	0	0
Public Accountants	0	1	1
Real Estate	2	3	2
Sanitarians	0	0	0
Speech Pathologists	Law effective 7-1-75		
Veterinarians	1	1	0
Heating, Ventilation and Air Conditioning	Law effective 7-1-75		
Water Well Contractors	1	0	0
Horse Racing	0	1	1
Athletics	0	0	0

*Some of these suspensions and revocations were done in informal hearings; the licensee voluntarily surrendered the license.

Source: Information supplied by Mr. Ed Carney, Director of Department of Professional and Occupational Licensing and the secretaries of each board.

renewal fees paid by those it licenses. If there are few licensees, the board can ill afford to monitor licensees and prosecute offenders. For example, the Board of Hearing Aid Dispensers' budget for Fiscal Year 1976 is \$5,253, and will shrink to \$2,044 by Fiscal Year 1981. The board acknowledges that its enforcement function will be limited "due to lack of funds". The Board of Private Investigators (budget \$1,100 for Fiscal Year 1976), Sanitarians (\$1,349), and Osteopaths (\$812) cannot hire legal assistance for a single hearing without bankrupting the board. The staff of the Attorney General's office is not always available, either, to enforce their laws. Even relatively wealthy boards are hard-pressed by disciplinary cases. The Board of Medical Examiners, for instance, has a budget of \$55,880 for Fiscal Year 1976, but since they pay fellow doctors \$50 an hour to investigate complaints, the cost of a strenuous enforcement program could be prohibitive.⁷³

Boards with larger budgets can, on the other hand, hire investigators and hold hearings without jeopardizing the board's budget. The Real Estate Board, for example, which has a Fiscal Year 1976 budget of \$193,800, had two investigators, held more disciplinary hearings than any other board, and revoked or suspended more licenses than all boards except one. The board plans to hire more investigators in the next five years.⁷⁴

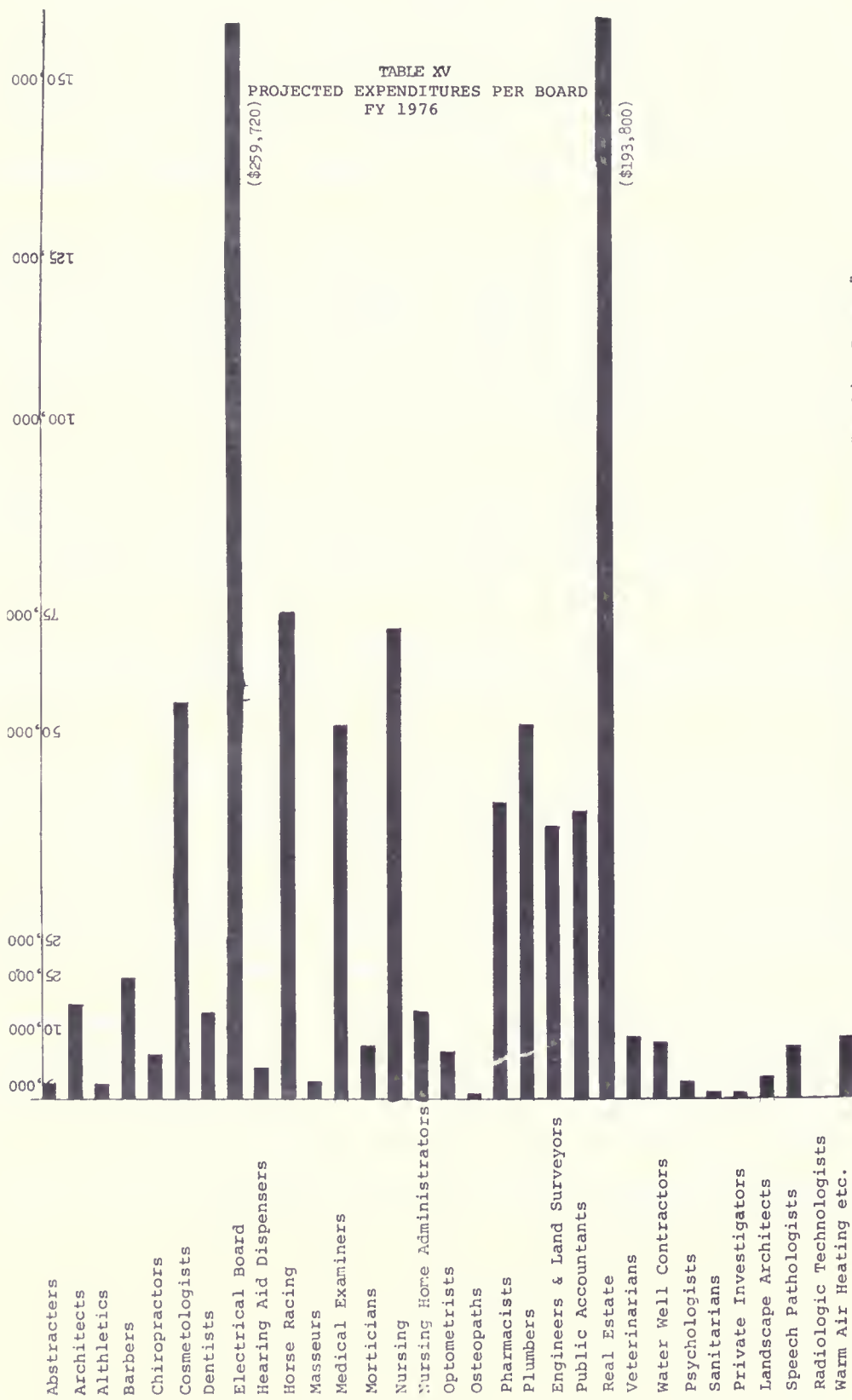
A board's budget may not be in direct proportion to its effect in the public interest. Thus, neither justice nor the public welfare seem to be served when enforcement of law depends on a board's budget. Table XV shows each board's budget in Fiscal Year 1976. Appendix C outlines the fees each board charges licensees.

Another criticism of boards' enforcement programs is that peers are reluctant to discipline each other. Proponents of boards say, on the other hand, that peers alone are able to judge professional behavior.⁷⁵

The DPOL, recognizing these problems of the boards' enforcement program, has requested that the legislature provide general fund money in the next legislature for a staff of four to handle law enforcement and investigation for all the boards. This would serve "to restore confidence of the public in the fact that licensing laws do serve a public protection role". The Board of Medical Examiners and several other boards are also requesting general fund appropriations for enforcement costs.⁷⁶

The Montana Administrative Code Committee is also recommending that the Forty-fifth Legislature pass a bill to establish an independent administrative law judge to hear cases in the department and a bill requiring a uniform fee for all boards that will be pooled for equal enforcement of all licensing laws.

In the context of board's budgets, the subcommittee received complaints from two boards that they bore an inequitable burden



Source: Office of Budget & Program Planning, "Working Papers".

of department expense or that the department did not furnish them sufficient information to budget wisely. The subcommittee investigated these complaints; its findings are included in Appendix D.

H. Alternatives to the Present System of Licensing

The subcommittee briefly considered various alternatives to the present system of licensing. These alternatives included:

1. *Decrease the number of professions licensed through use of the sunset law*

Colorado's "sunset laws", passed by the General Assembly and signed by the governor this April, have received much publicity. This law requires each licensing board (as well as various other boards and agencies) to prove "a public need for its continued existence". The General Assembly will assess public need on a nine-point criterion, including the board's efficiency, public participation in rulemaking, its speed in resolving complaints, and its compliance with affirmative action programs. The boards must also prove that they have "recommended statutory changes ... which would benefit the public as opposed to the persons it regulates", "required the persons it regulates to report to it concerning the impact of rules and decisions of the agency on the public", and required "persons regulated by the agency ... to assess problems in their industry which affect the public". If the General Assembly finds the boards do serve a public need, they may provide for their continued existence for a maximum of six years, at which time the proving process must begin again. Agencies which the Assembly found to be of no public use have one year to complete all business and disband (and fade into the "sunset"). The first dissolutions will occur in July 1, 1977 if the boards cannot prove public need by July 1 of this year. Occupations previously licensed by dissolved boards will no longer be regulated by the State.

The General Assembly passed this law in the belief that

"state government has produced an inexorable increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without legislative oversight, regulatory accountability, or a system of checks and balances. The general assembly further finds that by establishing definite termination dates for the existence of such agencies, the general assembly will be in a better position to evaluate the need for the continued existence of existing and future regulatory bodies."77

2. Certification by professional groups

Economist Milton Friedman has suggested that states cease to license occupations and allow professional organizations to certify members who meet certain standards. Persons not certified by the organization would be free to practice in the state, but the public would be aware that the person had not met the standards of the organization. He points out that most state licensing boards are composed of members of professional organizations and that these organizations frequently prepare the tests used by the boards. If state control were removed, the laws of supply and demand would correct what Friedman regards as the faults of state licensing. Organizations would not be able to control the supply of practitioners. If they were unduly restrictive in issuing certification, the number of noncertified would surpass those certified. Thus, the value of certification would be reduced.⁷⁸

While many observers regard this solution as extreme, they do acknowledge that certification would be a real alternative for occupations affecting public health only marginally. Real estate appraisers, for example, are not licensed in Montana, but certified by their professional organization.

Professional organizations are strong in most of the occupations licensed by the DPOL. They are often directly involved in the licensing process. Statutes require board members for the cosmetologists, dentists, hearing aid dispensers, nursing home administrators, pharmacists, podiatrists, and veterinarians to be appointed from a list submitted by their professional organization. The Board of Chiropractors depends upon its professional organization for "peer review". The Board of Dentists and the Montana Dental Association share the cost of printing the annual roster of licensed dentists. The Board of Architects relies upon the National Council of Architectural Registration Boards to prepare its examinations.⁷⁹

Professional organizations could enforce their certification with the fraud provision of section 94-6-307, if any practitioner claimed untruthfully to be certified.

3. Increased citizen participation

One alternative discussed in California and Illinois is to have persons outside the profession serve on boards and call on licensees to give advice on technical points.

Supporters maintain that board members would not, then, be tempted to reduce competition in the field or be reluctant to discipline licensees.

Many states require "consumer" members to sit on licensing boards. Six Montana boards include consumer members. The chief argument advanced against having a single consumer member surrounded by

professionals is that the consumer member is overridden by professionals or overwhelmed by technical details.

The Montana Administrative Code requires that all boards publish

"procedures for assisting public participation [which] shall include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public".⁸⁰

These rules may be promulgated to increase consumer participation.

4. Centralized licensing and enforcement functions

Pooling licensing fees, administration, and enforcement costs would remove the discrepancies among boards' programs. At present, boards have staff, legal aid, and supplies in common, but these must be prorated at the end of the fiscal year and charged to individual board accounts. Impoverished boards cannot always afford the services of the DPOL lawyer.

Were the current budget split among the 32 existing boards, each would have \$38,304. Boards with few licensees would not, however, always require this budget and it could be applied toward other boards' enforcement activities. Such pooling would encourage each board to have a program for monitoring licensees. Enforcement efforts would, thus, be standardized. The legislature would also be better able to assess the need for general fund appropriations if all boards' programs were comparable.

A less far-reaching alternative would be to combine several boards into one, pooling resources. For example, the Boards of Psychologists, Medical Examiners, Optometrists, and Osteopaths could be combined to share funds and staff. Board membership might also be diminished to include only one member of each profession.

IV. SUBCOMMITTEE DELIBERATIONS

At its final meeting, the subcommittee concluded that its study had amassed information valuable to the public and legislators. The members recognized that occupational licensing is a complex subject. They hoped that their study would serve as the basis for future legislative discussion.

As a result of the study and the subcommittee's concern, the Board of Real Estate proposed a rule lowering the cost of retaking its examination from \$50 to \$20.

At its final meeting, the subcommittee discussed the bonds required by statute for state licensure and the problems consumers encountered in benefitting from these bonds. The subcommittee requested the researcher to gather more information on the subject and prepare a bill, to be voted upon by mail.

The resulting bill, contained in Appendix E, was approved by the subcommittee.* Because the bill was drafted and approved after the subcommittee's last meeting, the subcommittee was not able to benefit from public testimony on the bill or extended subcommittee discussion. The subcommittee, therefore, recommends the bill's concept to the 45th Legislature, knowing that its details will be thoroughly examined in committee.

Because the subcommittee found occupational bonds to be inefficient in protecting consumers and expensive to licensees, it recommends repeal of the statutes requiring them. In its place, the subcommittee proposes that individual boards be authorized to hold formal hearings on consumers' complaints and to require the licensee to repair any damages he may have caused or to pay damages up to \$5,000 per occurrence. In addition, the bill levies a small yearly fee -- from \$5 to \$20 -- from each licensee to be pooled in an earmarked fund to pay consumers when the licensee defaults on the award a board made to a consumer. The board may revoke the license of any licensee defaulting and sue him in court. Consumers receiving a hearing before boards would not be prevented from seeking other remedies in court, but any award paid to a consumer as a result of a board judgment would be taken into consideration in further awards.

The bill, thus, would allow consumers to bring complaints and receive compensation against licensees without the cost and delay of court proceedings. It will allow boards a better method for regulating licensees. Licensees are protected by the procedural rules of the Montana Administrative Procedures Act.

* Voting for the bill: Senators Blaylock, Regan, Rosell; Representatives Gilligan, Lory, Wood, Ellis, Stoltz. Voting against the bill: Senator Nelson. Ballots not received by December 27: Senators Olson, Lee; Representative Wolfe.

TEACHER EDUCATION AND CERTIFICATION

1. *NATIONWIDE MOVEMENT FOR TEACHER CERTIFICATION CONTROLLED BY PEERS*

The creation of professional standards and licensure commissions for teachers is an issue facing many state legislatures this year. Education groups in almost 20 states are lobbying for the right of self-regulation through the creation of commissions, composed primarily of teachers, that have the authority to determine the standards of teacher certification and renewal.⁸¹

The basis of this nationwide movement is "professionalism".

While teaching is commonly viewed as a profession, it does not meet many of the characteristics of a profession as identified by sociologists:

1. teachers do not determine their own standards of education and training;
2. their licensing and admission boards are not manned by peers;
3. teachers are not "relatively free of lay evaluation and control";
4. teaching is not a "terminal occupation" (chosen out of preference to all others and followed throughout working life) for most graduates.

Proponents of bills to form professional licensing commissions point out that occupations commonly called professions -- law, medicine, accounting, architecture -- are licensed by boards of professional peers in all states; many occupations not usually considered professions -- massage, water well digging, and sanitation -- also have this privilege in most states. Teaching they argue, is a profession in that it:

1. requires long years of study;
2. is service oriented;
3. serves a necessary function in society; and
4. causes practitioners to identify strongly with their occupation.⁸²

As a profession, it cannot be held accountable for its standards, they believe, until teachers have the right to determine who enters the occupation, the training they receive, and the standards for continuing education.⁸³

Opponents of professional standards and licensing commissions maintain that the analogy between teaching and professions is not precise: the public may choose which doctors and lawyers to consult but rarely which teachers their children will have. Since teachers have such a prolonged and significant impact on the public, certification by state agencies who react to the needs of

teachers, administrators, school boards, higher education teachers, and the public is necessary. Teacher control of certification, they also argue, would give teachers wide powers to control the numbers who enter the profession and those who could legally teach during strikes.

The legal implications of professionalism for teachers have not been tested. Opponents fear that "professional" teachers would be liable for malpractice suits, which would prove very disruptive to school systems.⁸⁴

II. LICENSURE COMMISSIONS IN OTHER STATES

In considering a teacher licensure commission for Montana, the subcommittee collected much information on the success of licensure commissions in other states.

In January 1976, 23 states had professional standards and licensure commissions. The subcommittee sent questionnaires to these commissions and to the deans of education in these states, asking about the commissions' duties, powers, and effectiveness.⁸⁵

The questionnaires showed that 15 states have or recently had advisory commissions upon teacher education and certification. The composition and duties of two of these commissions are shown below:

IDAHO Duties and Functions: To make recommendations concerning violations of professional conduct.

To make recommendations in such areas as teacher education and certification.

Size and Composition: 17 members

7 classroom teachers (must include at least 1
special education teacher)
1 school superintendent
1 secondary principal
1 elementary principal
1 school board member
4 teacher education faculty members
1 staff member of the state department of
education
1 staff member of the department of vocational
education

PENNSYLVANIA Duties and Functions: To recommend to the State Board of Education standards for certification of teachers, standards for accreditation of teacher education programs, standards for professional practice for teachers.

Size and Composition: 16 members

- 8 classroom teachers
- 3 school administrators
- 2 teacher education faculty members
- 1 administrator from a teacher education institution
- 1 teacher education student
- 1 parent

These advisory commissions varied widely in assessing their own effectiveness. The Pennsylvania, Colorado, and South Dakota commissions rated themselves "very ineffective". They made few recommendations to either the state boards of education or the superintendents of public instruction. In Pennsylvania and South Dakota, commission members are appointed by the governor and are advisory to the state board of education. The Colorado commissioners are also appointed by the governor, but the law does not make clear to whom the body is advisory, a fact which commissioners feel has hampered them severely. Commissioners feel more loyalty to the governor, they say, than the state board of education.

The Idaho and Nebraska commissions rated themselves "very effective" and "100 percent effective", respectively. In Idaho the 17 commission members are appointed by the State Board of Education and are advisory to it. In Nebraska, the members are appointed by the governor and advisory to the state board. Commissioners attribute its effectiveness, in part, to the support of the State School Officer, who promoted legislation to establish the commission and, before his appointment, served as its first chairman.

Eight states have established standards and licensing commissions that are autonomous in establishing standards of teacher education and certification. California and Oregon have good examples of this type of commission.

CALIFORNIA Duties and Functions: To establish and promulgate standards and procedures for certifying education personnel.

To approve any institution of higher education whose teacher education program meets the standards prescribed by the commission.

Size and Composition: 15 voting members, 5 ex-officio

- 6 school personnel (4 must be teachers)
- 4 teacher education faculty members
- 2 local school board members
- 3 private citizens

The California Commission for Teacher Preparation and Licensing, created in 1970, establishes guidelines by which all teacher education programs in California colleges (both public and private) are assessed. This review extends to all academic disciplines which offer BA degrees. These guidelines do not specify particular credits or classes but set minimum and maximum credits. The guidelines have caused the following changes since 1972:

1. required 2-4 credits of reading instruction for all students;
2. required that student teaching equal 1/2 of any professional program;
3. required that student teaching be cross-cultural;
4. directed that programs be competency-based; and
5. required examinations of all applicants for knowledge of subject matter, unless an institutional waiver is granted.

The Commission approved the teachers' education program at 67 colleges and subject matter courses and the teacher education programs at another 56 during its first two years of operation. The Commission reviews each program at least once every five years. The Commission then certifies those completing an approved teacher education course.

The California Commission has been both praised and criticized. The deans of education were particularly critical, in responding to the questionnaire, of the Commission's guidelines for education. The School of Education at the University of California, Berkeley, maintains that the setting of the guidelines, through public hearings and administrative rulings, did not allow the teacher preparation institutions sufficient opportunity to advise. The guidelines as established inhibit flexibility in the programs and generate "extensive" paperwork. The assistant dean concluded that the establishment of the Commission had been detrimental to the teaching profession in California.

OREGON

Duties and Functions: To certify school personnel, to discipline teachers, and to approve teacher education institutions and programs.

Size and Composition: 17 members

- 4 elementary teachers
- 4 junior or senior high teachers
- 1 elementary principal
- 1 junior or senior high principal
- 1 superintendent of city schools
- 1 county superintendent
- 2 teacher education faculty members
- 1 school board member
- 2 members of the general public

TABLE XVI
MEMBERSHIP OF PROFESSIONAL PRACTICES COMMISSIONS

Membership	Alas.	Colo.	Fla.	Idaho	Iowa	Ky.	Nebr.	N.Dak.	Okla.	Utah	Texas	S.Dak.	Calif.	Ore.	Penn.
Appointed by	G	G	Bd.	Bd.	G	G	G	G	Bd.	Supt.	G	G	G	Bd.	
Non-Specified										5					
Students-in Teacher Education Program															1
Classroom Teachers	5	8	at least	7	4	4	12			at least	6	5	6	8	8
Administrators	2	3	4	3	3	4	12	2	3		5			4	3
School Bds.				1			2				3				
State Dept. of Education	1		1	1	1		1				1	2		1	
Education Association			4				4		9		1				
Vocational & Special Services	1		1			3				2					
Higher Education	1		2	4	1	1				2		4	2	3	
Lay (public)											1	3	2	1	
TOTAL	9	12	19	17	9	12	12	9	12	11	15	11	15 + 17 (5 ex-officio)	16	

S=Superintendent of Public Education

G=Governor

Bd.=State Board of Education

Source: South Dakota State Legislative Research Council, Professional Practice Acts for Educators, 1973; information from various state commissions.

Autonomy: Is autonomous

Relationship with State Education Agency:
Close working relationship but some conflict.

The Oregon Teacher Standards and Practices Commission set standards for the approval of teacher education programs in 1974 and is now revising them. These standards set broad criteria for program philosophy and content. Under these standards, one-third of all credits must be in the subject area(s) to be taught, one-third in general education courses, and one-fifth in professional education courses. Each student must spend at least nine weeks student teaching under conditions specified by the standards.

In setting its standards, the Commission sought advice from teachers, administrators, the state board of education, teachers in teacher education programs, and the public. The State Board of Education supported the bill to establish the Commission. As a result, the Commission's relations with all education interests have been good. Both the Oregon Education Association and the deans of education are enthusiastic about the new standards. One dean disclosed that "all changes were very much needed". Both groups agree that teacher education programs and the teaching profession in Oregon have been strengthened by the Commission.

The Oregon School Board Association has, however, expressed fear that the Commission has initiated "too many" changes in teacher education programs too rapidly and that the Commission's power to require certification for substitute teachers may create difficulties should a strike occur.

III. TEACHER EDUCATION PROGRAMS IN OTHER STATES

State boards of education (or their equivalent) in 39 states "approve" teacher education programs in the states' university system. In 24 of these states, the board establishes the number of credits needed in each discipline. In Louisiana, for example, an approved teacher education program for elementary education, includes 46 semester hours of general education, divided in specified order among English, social studies, science, math, and physical education classes; 22 hours of specialized education, divided among children's literature, speech, geography, Louisiana history, art and music; and 24 hours of professional courses, the content of which is prescribed by the Board. Fifteen of the states with the "approved program" approach are less specific. Maine, for example, requires only that the applicant finish a "four-year baccalaureate program approved for the teaching of elementary (or secondary) teachers" and allows the state board to assess each institution differently.⁸⁶

Montana is one of the 11 states in the union that does not provide for approval of teacher education programs by the state board of education.

IV. CERTIFICATION OF TEACHERS IN MONTANA

Under the current law of Montana, the Board of Public Education establishes policies, within statutory limits, for teacher certification. The Superintendent of Public Instruction may make recommendations to the board in formulating its policies. Many of the requirements for teacher certification are defined by statute: the qualifications for the various classes of certificates, the renewal dates, the basic qualifications for certification, and the reasons for and procedure to be followed in suspension, revocation and denial of certificates.

The board is required to adopt policies, in accordance with these laws, dealing with:

- (1) training and experience requirements for the various kinds of teacher certificates and endorsements;
- (2) certificate renewals;
- (3) the conduct of hearings on teacher certification, revocation, suspension, or denial; and
- (4) the issuance of emergency authorization for uncertified teachers.

The board may also make decisions on certification of noncitizens, approval of correspondence or in-service training, and substitute teachers. It does not have the authority to approve teacher education programs at the units of the Montana University System.⁸⁷

The Superintendent of Public Instruction issues and renews teacher certificates in accordance with the Board of Public Education's policies.

The fees for these certificates are established by statute: a \$2 filing fee, \$2 original issue fee, and \$2 a year renewal. These fees are placed in the general fund. In Fiscal Year 1976, the total fees collected were \$47,885. OSPI's administrative costs for certifying teachers were \$43,924.⁸⁸

V. TEACHER EDUCATION IN MONTANA

Under current law, the Board of Public Education does not review or approve teacher education programs. An applicant for certification need only "complete the teacher education program of a unit of the Montana university system". Regulations established

by the Office of the Superintendent of Public Instruction stipulate that for the standard (Class 2) certificate applicants must have 45 quarter credits in a teaching major, 30 in a minor (or 60 in a single field) and 24 credits of education courses. There are no specific requirements for elementary education certification, but the Superintendent of Public Instruction reports that 45 quarter credits of professional education courses "are generally found".⁸⁹

This ruling has had the effect of setting the minimum number of credits in teacher education programs in units of the Montana University System, but the number required for graduation and recommendation of a student to the Office of the Superintendent of Public Instruction is the responsibility of the deans of education, university bodies, and the Board of Regents. One result of this structure is that the teacher education courses at the 5 units of the Montana University System vary widely, as Table XVII shows.

The requirements and amount of time spent in teacher education programs vary slightly, as do the requirements for student teaching. What varies much more markedly is the number of credits required by each unit for graduation for the program and recommendation for certification. For a recommendation in secondary education, a student may be required to have from 45 to 78 quarter hours in his major, 30 to 47 credits in his minor, and 36 to 62 in professional education courses. The requirements for a specific teaching major also vary from unit to unit: a teaching major in chemistry at the University of Montana require 49 credits and at Montana State University 62 credits are required, while home economics at the University of Montana requires 65 credits and at Montana State University 55 credits are required. The number of credits given for student teaching ranges from 10 to 16. At Eastern, Northern and Montana State University, secondary-level teachers spend part of a quarter in pre-student teaching observation and a quarter in student teaching. At the other 3 units, only one quarter of student teaching is required.

The requirements in elementary level teacher education programs at the units are not uniform either, as Table XVII shows. General education requirements are very different: 11 credits in English at Montana State University to 29 at Western; students at Eastern receive 8 credits for a sophomore practicum in the schools, and students at Western 2; other units do not have this program.

This variation is sometimes used to train students for different types of teaching. Northern, for example, shaped its Generalist program for those who will teach in small schools where a teacher may be required to handle a broader range of subjects. At other units, the schools of education are advocating that the number of credits required for secondary level endorsement in any area be at least 45: that is, to teach any subject one must have majored in it. The Superintendent is resisting this movement, on the grounds that teachers in small junior and high schools must, of necessity, teach several subjects.

Ten majors and minors are offered at the various colleges and universities which are not recognized by the Office of the Superintendent of Public Instruction and the Board of Education for endorsement: anthropology, communication skills, computer science, environmental education, family life education, humanities, inter-personal communication, Italian, native American studies, and philosophy. The Superintendent of Public Instruction requests that the colleges tell prospective students that these areas are not subject to endorsement. If a graduate is hired to teach one of these subjects in a Montana high school, the Office of the Superintendent of Public Instruction will endorse them in the nearest possible subject area (i.e., math for computer science).

The Office of the Superintendent of Public Instruction is concerned about the variation in teacher education programs and has encouraged the Board of Education and the Board of Regents to meet in an attempt to co-ordinate the programs. The Office of the Commissioner of Higher Education has recently finished a study on the subject.⁹⁰

The schools of education do not screen applicants for teacher education programs beyond setting minimum grade point averages and, in some cases, requiring examinations in English or spelling. The numbers completing the programs are in reverse to the job openings in Montana, as Table XVIII shows.

The subcommittee sent questionnaires to thirty teachers throughout the state, seeking their comments on teacher education in Montana.* Six of those responding testified at the January 17 meeting.

VI. MONTANA'S ADVISORY COMMITTEES ON TEACHER EDUCATION AND CERTIFICATION

Section 82A-110(10) grants the Superintendent of Public Instruction the authority to create advisory councils for "furnishing advice, gathering information, and making recommendations". In the past 20 years, the superintendents have appointed 3 councils to advise upon teacher education and certification.

The Teacher Supply Committee was created in 1957 "to study the problem of insuring enough qualified teachers for Montana's elementary and secondary schools". Specifically, the superintendent asked the committee to examine and revise the existing regulations and practices of certification, which had "been complicated by retention of old statutes and the enactment of new laws establishing additional requirements and types of certificates over a forty-year period".⁹¹

*The responses are on file at the Legislative Council.

The Number of Course Credits in Major and Minor Fields
Required for Secondary Level Education Degrees
Montana State University System, 1975-1976

(M=Major Field, m=minor field)

	U of M		Western		Northern		MSU		Eastern	
	M	m	M	m	M	m	M	m	M	m
Anthropology	48	36								
Agricultural & Industrial Ed.							39			
Broadfield	60	33	58	33	34		35 + related credits		45	30
Art			73				57			
Broadfield										
Biological Science	75-78	50	62	31	37		77		44	
Broadfield									66	
Business Education			45	33						
Secretarial option	54-60	39-45			63	37	70	43	45	30
Non Secretarial opt.	53-59	37-43			53	37	72	40	45	30
Broadfield			70							
Chemistry	49	33		31	34		62	40	49	34
Communication skills	63	37								
Computer Science	48-50	43								
Distributive Ed.										
Broadfield							72			
Drama	62	36					57			
Earth Science	62	36					51	40		30
Economics	53	38								30
English	60	42	58	41	52	35	59	42	45	30
Broadfield			75		74					
Environmental Ed.		31								
Family Life Ed.							37			
French	60	45			30-2		54	41		30
General Science							54			
Broadfield	75				80				80	
Geography	55	33								
German	60	45					36		45	30
Health Education					34		54	41		
Health Education &							43			
Physical Education	63	43								
Broadfield			52	35	53	41-2			62-4	41
			75						65	

	U of M		Western		Northern		MSU		Eastern	
	M	m	M	m	M	m	M	m	M	m
Physical Education (men)							79	44		
Physical Education (women)							79	38		
History								40	45	30
History-Political Science	53	33								
History - Social Science			55	37	61	39				
Broadfield			75		80					
Home Economics	65	47					55	35-6		
Humanities		36								
Industrial Arts			50	34	44			38		
options: Automotive, electronics, metal					45-9					
Broadfield			65		46					
Inter personal Communication	61	36								
Italian	60	45								
Journalism	48	32								
Latin	48	36								
Library Science		30		36				36		30
Mathematics	55-7	39-40	45	32	61	39	56	38	50	30-2
Broadfield			72							
Music	62	32	56	36		41			77	30
Broadfield (K-12)			75						77	
Vocal opt.							59	41	77	
Instrumental opt.							59	42	77	
Studio teaching							53			
Native American studies	31									
Philosophy	31+									
Physical Science			50	33			54-7			
Physics	45	30		33		33	53	36-7	45	30
Political Science										30
Psychology	45	30						36		30

U of M Western Northern MSU Eastern

	M	m	M	m	M	m	M	m
Reading (K-12)		31						
Russian	60	45					48	30
Social Science	75						60	
Broadfield								
Social Studies			60	44				
Sociology	53	38						30
Spanish	60	45	54	41			45	
Special Education		36						30
Speech Communications							45	30
Speech			50	40				
Theatre Arts				35			45	30
Vocational-Technical					69 - 80			

Education courses required for secondary level education training.

42 62 41 36 39

Credit for Student Teaching

10 15 16 16 12

Minimum Credits Required in Elementary Education Degree Programs,
Montana University System, 1975-1976

	U of M	Western	Northern	MSU	Eastern
Education	48	50	46	64	65
English	21	29	15	11	15
Physical Ed.	3	3	5	3	6
Health Ed.	6	3	3	4	6
Social Studies					
(unspecified)	10			3	9
Government	5	5		4	
History	8	8	15		6
Geography	5	3		8	3
Economics		3			
Psychology		5	14	4	
Humanities					12
Speech Comm.		2		3	
Art	6	7	5	7	3
Music	9	6	6	6	3
Science (unspecified)	15	15	12		13
Biology				4	4
Physical Science				9	4
Mathematics	14	10	9	12	6
Drugs, Alcohol, Tobacco	3	3	2	3	2
Electives	42*	40**	60***	43****	35*****

*electives may be used to strengthen required academic fields or to complete a minor in 1) early childhood education 2) library media 3) mathematics 4) reading 5) science 6) special education

**electives may be concentrated to provide specialization in 1) art 2) business 3) English 4) foreign language 5) industrial arts 6) library 7) mathematics 8) music 9) physical education 10) social sciences 11) science

***students following the Generalist program must use their electives to determine two areas of concentration (10 credits each) in 1) art 2) arts and crafts 3) English 4) foreign language 5) health and physical education 6) history and social science 7) math 8) music 9) science

students following the Specialist program must use their electives and pursue a minor in 1) early childhood education 2) art 3) biology 4) English 5) general science 6) history and social science 7) mathematics 8) music 9) physical education 10) physical science

****electives must be used to pursue three areas of concentration (20 credits each) in 1) math-science 2) language arts 3) social studies 4) fine arts and theater 5) other field approved by advisor and department head

****electives must be used to establish a concentration (21 credits) in 1) art 2) early childhood education 3) English 4) environmental education 5) languages 6) health and physical education 7) history 8) library sciences 9) mathematics 10) music 11) science 12) social science 13) special education 14) speech-communication 15) theatre arts 16) reading

TABLE XVII (cont.)

Requirements for Secondary Level Education
Degrees in The Montana University System, 1975-1976

Admission to teacher education program:

Eastern: Minimum 2.25 cumulative grade point average (GPA),
after 72 credit hours, 2.25 GPA in professional
courses

Northern: Minimum 2.2 cumulative GPA after 90 credit hours,
approval of adviser and Dean of Students, C or better
in beginning education courses

Western: Minimum 2.0 GPA after 75 credit hours, demonstrated
proficiency in oral and written English

MSU: Minimum 2.0 GPA after or 75 credit hours, demonstrated
proficiency in oral and written English, approval of
adviser

U of M: Minimum 2.00 GPA upon enrolling in Education 200

Degrees offered:

Eastern :
Northern : BS in Education
Western :

MSU: BS in Secondary Education or baccalaureate degree in
his teaching major

U of M: Bachelor of Arts in Education

Admission to student teaching:

Eastern: Minimum 2.25 cumulative GPA, 2.25 in professional course

Northern: Minimum 2.2 cumulative GPA, approval of Director of
Student Teaching, major and minor departments

Western: Minimum 2.2 cumulative GPA, 2.2 in major and minor
fields, 2.0 in professional education sequence

MSU: Minimum 2.2 GPA in major and minor fields, 2.0 in
education courses, approval of major and minor advisors

U of M: Minimum 2.3 cumulative GPA, 2.0 GPA in Education classes
consent of Director of Student Teaching

Student teaching requirements:

Eastern: Pre-student teaching observation; student teaching
(12 credits)

Northern: Field experience (3); student teaching (16)

Western: Student teaching (15)

MSU: Student Teaching (16)

U of M: Student Teaching (10)

Requirements For Elementary Education Degrees
In The Montana University System, 1975-1976

Admission to teacher education program: Same as requirements for
secondary level education degrees

Degrees offered:

Eastern, Northern, Western, and U of M: Bachelor of Science
in Elementary Education

U of M: Bachelor of Arts in Education

Admission to student teaching program: Same as requirements for
secondary level student teaching

Student teaching requirements:

Eastern: Sophomore practicum (8 credits); student teaching (12)

Northern: Field experience (3); student teaching (16)

Western: Observation (2); student teaching (15)

MSU: Paraprofessional experience (8); student teaching (12)

U of M: Student teaching (15)

Source: Current catalogs of the five units of the Montana University
System.

TABLE XVIII

Number of Graduates Completing Teacher Preparation
Programs Eligible for Certification

	1970-1	1971-2	1972-3	1973-4	1974-5
Western Montana College					
Elementary Education	57	99	92	73	54
Secondary Education	106	101	124	99	75
Eastern Montana College					
Elementary Education	184	210	168	179	143
Secondary Education	254	227	160	157	111
Northern Montana College					
Elementary Education	53	61	45	38	13
Secondary Education	99	95	85	61	33
University of Montana*					
Elementary Education	247	262	173	143	104
Secondary Education					266
Montana State University					
Elementary Education	106	127	137	90	84
Secondary Education	297	268	223	170	165
TOTAL					
Elementary Education					398
Secondary Education					650

Average Annual Job Openings in Montana, 1970-1980

Elementary School Teachers	530
Secondary School Teachers	200

*Information from U of M for the years 1970-4 was requested in a slightly different form

Sources: Annual Report to the Board of Regents, Montana University System, 1973-4; information from Schools of Education and the Office of Commissioner of Higher Education; Montana Service Manpower, 1980, Montana Employment Service

The committee was composed of

- the deans of education at the five units of the Montana University System
- 2 school superintendents
- 1 school principal
- 1 county superintendent
- 1 high school teacher
- 1 elementary teacher
- 1 Montana Education Association member
- 1 Parent-Teacher Association member
- 1 School Board Association member
- 5 employees of the superintendent's office

The superintendent asked the committee to recommend changes to her, which she took under advisement in making recommendations to the State Board of Education. The State Board, as it was then known, "prescribed and adopted" the rules for teacher certification. The committee also advised the Superintendent of Public Instruction on teacher education programs at the university units.

The committee met three or four times a year at irregular intervals. In the interim, ad hoc groups, composed of interested members, met to discuss certain classes of certificates. Their recommendations were reviewed at the meeting of the whole and, if approved, sent on to the superintendent for consideration.

After the new certification standards were passed, the Teacher Supply Committee remained in existence to interpret the new policy. From 1960 to 1968, the same members reviewed teacher education programs at the various units and advised upon problems arising under the new certification rules. In 1968, the SPI office felt that the new rules were launched. Five new representatives from the teaching community -- an additional elementary teacher, secondary teacher, elementary school principal, secondary school principal, and superintendent -- were added. The committee met once or twice more and then lapsed when the superintendent did not seek reelection in 1968.

The new superintendent did not appoint an advisory committee for the first year of her term, but met on an informal basis with the deans of education to discuss teacher education and certification.⁹² In May 1970, the superintendent met with the deans of the Advisory Committee on Teacher Education and Certification. As proposed, the committee was to be appointed by the State Board of Education and advisory to the superintendent. The Board, however, declined participation and the committee was appointed by the superintendent and advisory to that office. The superintendents and deans agreed that the committee would include:

- the state president of the Student Education Association
- the deans of education
- president of the Montana Association of School Administration

chairman of the MEA, AFT, and TEPS committees
chairman of the Association of Classroom Teachers.

Its functions were:

- "1. Channeling recommendations for policy change to the State Board through the State Superintendent.
2. Authorization to consider special problem cases in certification ... and recommend disposition to the S.P.I.
3. [Making] general recommendations for teacher education and certification."

This committee did not have so specific a charge as revising the certification laws; over its five year history, it discussed new endorsements, certification of school support personnel, and teacher education at the five units in general terms. It met irregularly -- once every three to six months. In the fall of 1973, the superintendent appointed four additional classroom teachers to the committee to achieve "a better balance of representation". The committee was dissolved six months later. The Superintendent was concerned about the energy consumption and expense of the meetings. A "mail-in" committee was substituted.⁹³ This committee is composed of

- 3 elementary classroom teachers
- 3 secondary classroom teachers
- 3 administrators
- 1 county superintendent
- 1 student in a teacher education program
- 1 representative of instructional support workers
- 45 randomly selected educators.

The superintendent surveys committee members on matters relating to teacher education and certification.

To assess the effectiveness of the two past advisory committees, questionnaires mailed to members of the committees and meeting minutes were used.⁹⁴

Members praised both committees for bringing all segments of the educational committee together. One member wrote

"Personally I valued the committee meetings very much because, as a classroom teacher, it was a means of communicating with two groups who affect teaching."

They enjoyed the input they felt they were making to decisions affecting teaching in Montana. Members felt they were particularly successful in securing middle school certification procedures, "broad-field" endorsements, and in strengthening secondary school requirements.

However, members of both committees also pointed out some problems with the committees.

(1) The composition of the committee

Members of both committees expressed concern that the representation of interests in both of the committees was not balanced. Classroom teachers on the Teacher Supply Committee complained that teachers and administrators were under-represented. One called for "another teacher to counterbalance education deans". Another complained that the deans met before the meetings and presented a solid front. Members of the Advisory Committee on Teacher Education and Certification, on the other hand, resisted the appointment of additional administrators and teachers because "the size of the committee could easily become too large to be effective and manageable".

Both committees realized that "additional membership is up to the State superintendent -- that the membership could change at any time. Further, the committees' existence was never certain for more than two years at a time and depended upon the reelection of the superintendent.

(2) Who appoints the committee

Members of both committees felt that their effectiveness was limited by the fact that they were advisory to the SPI, who was then advisory to the State Board of Education on matters of teacher certification. This position was a distinct feature of both: the SPI "funnelled" their recommendations to the State Board of Education. The Advisory Committee on Teacher Education and Certification, in fact, passed a resolution (June 26, 1970) "to recommend to the State Board of Education that it (i.e., the Advisory Committee) serve as a review committee on all questionable cases of certification." The SPI determined, however, that the committee should review such cases and make its recommendations to her office.

A solution suggested by several members was to make a new advisory committee "an arm of the State Board of [Public] Education and directly answerable to that body". Since the former State Board of Education has now been split into two boards, one specifically charged with overseeing the problems of elementary and secondary public education, the board would have more time to receive the recommendation of such a committee. Current state law 82-110(10) gives the board the right to appoint an advisory committee on the same terms as the SPI now does.

(3) Its function

Since the committee's duties were not outlined in statute, its function was defined by the SPI. Members expressed concern on two seemingly contradictory points:

- (a) that the committees served little function unless they had as specific a duty as reviewing and revising certification standards (Teacher Supply Committee, 1957-1959);

- (b) that the committee's range of review was limited by the SPI.

The first concern seems borne out in the minutes: discussions were more detailed and pointed during the two year period when certification standards were under review than at any other point during the 20 years of committee discussion. The Advisory Committee on Teacher Education and Certification, in particular, sometimes seemed at a loss to decide what to study. Few in-depth, prolonged studies were undertaken and what should be discussed next was debated at several meetings. One member noted that the committee sometimes "floundered around" with no specific topics to discuss.

(4) The procedure

Since the committees were only minimally recognized in statute, their procedure was established by the SPI. The procedure often worked well. However, committee members sometimes became frustrated when they felt their recommendations were not being considered seriously. The Advisory Committee on Teacher Education, for example, protested when the SPI office did not reply to its recommendations on certification of guidance counselors for over a year.

An extension of this problem was that the committee met only when requested by the office of the SPI. Meetings were sometimes very irregular. Respondents urged that possible future committees meet on a regular basis and more frequently than past committees.

(5) The budgets of committees

In the past, the travel expenses of committees and per diem of participants was borne by either the state government body they represented or by their professional organizations. Teachers in local schools were paid for travel expenses, while their schools paid the cost of a substitute.

Some members of the committees recommended that the future committees have a designated budget which will reimburse school districts for time spent by working teachers at the committee meetings.

VII. SUBCOMMITTEE DELIBERATIONS AND PROPOSED BILL

At its final meeting, the subcommittee voted 5-4* to recommend

*For: Senators Blaylock, Lee, Regan and Representatives Stoltz and Gilligan; Against: Senators Nelson and Rosell and Representatives Lory and Wood; Absent: Senator Olson, Representatives Ellis and Wolfe.

that the Forty-fifth Legislature enact a bill to create a Board of Professional Standards and Licensure with authority to establish policies for teacher education and certification. The bill appears in Appendix G. Two minority reports on the bill appear on pages 91 through 92.

Before voting on the bill, the subcommittee mailed HB 636 to over 30 individuals and organizations. Their responses are on file in the Legislative Council offices. Testimony on the concept of a teacher certification board was received at five meetings.

PROPOSED BILL

The major provisions of the bill are to:

- (1) create a Board of Professional Standards and Licensure (BPSL), composed of 11 members appointed by the governor -- 6 classroom teachers, 1 school administrator, 1 lay member, 1 member of a local school board, the Superintendent of Public Instruction, and the Commissioner of Higher Education;⁹⁵
- (2) transfer authority for policy formulation about teacher certification from the Board of Public Education to the Board of Professional Standards and Licensure;
- (3) give the BPSL authority to establish standards for approval of teacher education programs;
- (4) require applicants for teacher certification to complete Board-approved teacher education programs; and
- (5) establishes an earmarked revenue fund to collect teacher certification fees and finance the Board's meetings. Filing fees for certification are increased from \$2 to \$5 and renewal fees from \$2 to a maximum of \$10.

CONSTITUTIONALITY

One of the subcommittee's considerations in adopting the bill was its constitutionality, an issue raised early in the study.

The subcommittee requested an opinion on possible conflicts between Montana's constitution and the bill. As the Attorney General's office does not comment on bills not yet enacted, the Legislative Council's staff attorneys reviewed the bill.⁹⁶ They found no passages which clearly contravene the Constitution. There are sections of the bill which may raise constitutional questions. However, as illustrated below, arguments also exist for declaring the sections within constitutional limits.

Section 18, which provides that the Board of Professional Standards and Licensure shall establish policies for the approval of teacher

education programs, may come into question as Article X, Section 9 of the 1972 Constitution gives the Board of Regents "full power, responsibility, and authority to supervise, coordinate, manage, and control the Montana university system ...". However, other licensing bodies have been granted statutory authority to approve curriculum within the Montana University System. The Board of Nursing, for example, requires under Section 66-1228, R.C.M. 1947, that applicants be graduates of "an approved school of nursing." The Board's standards of approval (incorporated by reference in MAC 40-3.62(6) - S62110) include "curriculum requirements, faculty requirements, and admission requirements." Professional nursing programs at Montana State University and Northern Montana College are subject to this review. Similarly, the Board of Professional Engineers and Land Surveyors stipulates under Section 66-2357 that applicants seeking licensure under one option must be graduates of a curriculum "approved by the board." The statutes granting these boards curriculum approving authority have not been challenged. Under the subcommittee's bill, the Board of Professional Standards and Licensure would have authority to approve education programs similar to these boards.

Staff attorneys also noted that Section 8 might be challenged, since Article X, Section 9 gives the Board of Public Education the right "to exercise general supervision over the public school system". During the 1972 Constitutional Convention, however, the Education and Public Lands Committee recommended the deletion of the word "control" from the powers granted to the board under the 1889 Constitution. This recommendation, adopted by the convention, suggests that flexibility exists in interpreting what "general supervision" includes.

The subcommittee decided, on the advice of staff attorneys, to attach the Board to the Board of Public Education for administrative purposes rather than the Board of Education, as originally proposed in HB 636. In the recent case Board of Public Education vs. Judge, the Supreme Court ruled the attaching of the Vocational Educational Board to the Board of Education unconstitutional on the grounds that the Board of Education has "no executive or administrative powers other than those expressed in planning, coordinating and evaluating". Thus, a board, attached to the Board of Education, that established policy would in all likelihood be challenged.

FISCAL IMPACT

Under the subcommittee's proposed bill, the revenue generated from teacher certification fees would provide sufficient funds for the operation of the Board with some surplus. Approximately \$40,000 would be diverted from the general fund to the earmarked fund. In Fiscal Year 1978, the Board's costs would be approximately \$50,000. If renewal fees remained at their present \$2 and filing fees were raised to \$5, the Board's expenses would be met.⁹⁷

The subcommittee voted to allow a maximum of \$10 for renewal fees to allow the Board to raise funds as inflation necessitated, without requiring legislation.

VIII. MINORITY REPORT

None of the testimony or research data received during the subcommittee's study of teacher certification answered a question fundamental to the creation of the Board of Professional Standards and Licensure: how would the change benefit teachers, pupils, school systems, and Montana citizens? Rather, the testimony and research showed the strengths of the present system of certification -- that it allows representation of educators and the public in establishing certification policies, that teachers have a distinct voice in the process, and that the present system has mechanisms to solve any problems that may exist in teacher certification. Most of the witnesses appearing before the subcommittee pointed out these strengths and testified against the proposed board. For these reasons, we do not support the bill to create a Board of Professional Standards and Licensure.

Since education is a public concern directly affecting every citizen, it is vital that a board representing a variety of viewpoints and concerns establish policies for certification and discipline of teachers in public schools. Under the present system, advisory committees, state agencies, and the Superintendent of Public Instruction all make recommendations to the Board of Public Education. The resulting Board decisions balance the needs of teachers, pupils, administrators, school board members, college educators, and the public. The public and many-faceted nature of education refutes the argument that teachers should be allowed to regulate themselves as other professions do: a patient may choose his doctor or a litigant his lawyer, but a child or parent is rarely able to choose a teacher.

Teachers have had a voice throughout the past twenty years in teacher certification policies. From 1957 to 1968, several teachers sat on the Teacher Supply Committee to recommend changes in the classes of certificates and the processes of certification. The committee's recommendations were approved by the superintendent and the Board of Education and passed by the legislature. During the last six years, another committee containing several teachers has advised the superintendent and the Board on matters ranging from teacher education to discipline and certificate revocation. At present, 51 teachers serve on an advisory committee to the superintendent. These committees have helped to fashion both the existing law and Board of Public Education policies on certification. The subcommittee also learned that teachers and teacher education students have been asked to advise the university system on changes in education courses and requirements.

With advice and recommendations from many sources, the Board of Public Education has solved problems arising in teacher certification process. During the past two years, the Accreditation and Certification Committee of the Board has compiled and revised its

policies to allow more flexibility in the certification process and established a formal procedure for changing these policies. These decisions were made after many months of public hearings and exchanges with educators.

In our judgement, these factors make the Board of Public Education a better body to determine certification policies than a board weighted by a single interest group.

Representative Gene Wood

Representative Earl Lory

Senator Harold Nelson

IX. MINORITY REPORT

I join Representative Wood and Representative Lory in opposing the subcommittee bill creating a board of professional standards and licensure.

I agree with the objections to the bill voiced in the minority report. In addition, I believe the bill raises a serious constitutional issue. Article X, section 9, provides that the Board of Public Education shall "exercise general supervision over the public school system" and the Board of Regents shall have "full power, responsibility, and authority" to control the Montana university system. Under the subcommittee bill, the board of professional standards and licensure would take power from both of these bodies. It would make policies for the certification of teachers in the public school system and for their suspension or revocation, matters surely relating to "general supervision." In addition, the newly-created board would set standards for teacher education programs at the university units, thereby abridging the Board of Regents' right to control university curricula and policies.

For the reasons stated in the minority report and for the constitutional issues it raises, I oppose the bill.

Senator Antoinette Fraser Rosell

FOOTNOTES

¹U.S. Department of Labor, The National Apprenticeship Program, 1972, p.1. Montana Apprenticeship Bureau, A Scholarship Through Apprenticeship (n.d.), p. i.

²Chapter 149, S.L. 1941 USCA 29. Verified in interview with Robert Scott, State Director of the federal Bureau of Apprenticeship and Training, 1 September 1976.

³Chapter 149, S.L. 1941. Sections 44-1201 through 44-1206, R.C.M. 1947.

⁴Information from Richard Michels, Chief of the Apprenticeship Bureau, and Robert Scott, State Director of BAT.

⁵USCA 29, part 30. Verified by Robert Scott, 1 September 1976. The Secretary of Labor proposed regulations in March 1975 to register and deregister state apprenticeship bureaus. However, the regulations have never been adopted. Federal Register, Volume 40, number 47, part IV.

⁶USCA 14262 and 1777, MAC 24-3.14A11 (1) S1400. Information from Administrator, Veterans' Service, Fort Harrison, 6 April 1976 and from R. Michels, 20 April 1976.

⁷Information from Robert Fuhrmann, CEP and WIN Supervisor, and Herbert Waltermire, Assistant Deputy Administrator, Employment Services Bureau, 26 April 1976.

⁸C.F.R. 29, p 5a1-5a7. USCA 23, pt. 140. USCA, pt. 351.

⁹Telephone interview with Jeff Wulf, 1 September 1976. Telephone interview with Jim Thompson, Helena Adult Education Supervisor, 30 August 1976. Letters from Norman Devoe, Director of Adult Education Program in Billings, 11 August 1976; John Giese, Director of Federal Programs and Adult Education in Missoula, 18 August 1976; James H. Carey, Director of Vocational-Technical Education in Great Falls, 31 August 1976; telephone interview with Jim Thompson, Helena, 30 August 1976. The totals for Helena are approximate. These letters are on file at the Legislative Council.

¹⁰George Strauss, "Union Policies Toward the Admission of Apprentices", Issues in Labor Policy, Stanley Jacks, ed., (Boston: MIT) 1971, pp. 72 through 73. New York Times, 13 April 1965, 29 December 1966. Simon Rottenberg, "The Irrelevance of Union Apprenticeship/Journeymen Ratios", Journal of Business, 34 (July 1976), pp. 384 through 386.

¹¹CFR, Title 29, pt. 30.

¹²CY 1975 Apprentice Actions (Bureau of Apprenticeship and Training); U.S. Department of Commerce, Education Attainment, 1974, pp. 135.

¹³State Plan, pp. 3, 4 through 6.

¹⁴These figures are drawn from the JATC apprenticeship standards on file with MAB or BAT.

¹⁵No individual apprenticeship agreement standard contain maximum age limits.

¹⁶Compiled from MAB's field review sheets, December 1975. Minority groups are defined as "Negro, American Indian, Spanish descent, and oriental". In the nation, 10.2% of the apprentices in the construction industry were minority group members in 1972. "Strengthening Apprenticeship", Manpower, February 1972, p. 20.

¹⁷Information from MAB files, September 1976.

¹⁸Information from R. Michels and R. Scott, December 1975. Verified 26 October 1976.

¹⁹Rosemary Zion, Chief Counsel to the Human Rights Bureau, to the Subcommittee on Occupational Licensing, 5 November 1976.

²⁰These ratios are only approximate since the number of journeymen employed in each shop is not shown on the compliance review sheet.

²¹Testimony at 15 May 1976 meeting.

²²Testimony at 6 November 1976 meeting from the Montana Independent Electrical Craftworkers Association. Similar testimony was offered at the 23 July 1976 public hearing before the State Board of Electricians.

²³The responses to this survey are on file at the Legislative Council. A representative of the AFL-CIO objected to the methods used in conducting this survey (see minutes of 15 May 1976 meeting). The survey was offered to the subcommittee only as an indication of businesspersons' reactions to apprenticeship programs and is included in the final report with the same caution.

²⁴The following caution in the use of this survey was included in the 3 September 1976 memorandum to the subcommittee:

"Since the survey was completed three years ago, the information it gathered is somewhat dated. Further, the Research Division framed the questionnaire to learn how Employment Security offices could better serve businesses rather than to provide data on apprenticeship training in small towns. Despite these limitations, the data collected by the survey

is still valuable. The survey is the largest and most diversified sampling on the topic conducted by a state agency in recent years. The questions asked in the survey deal directly with those areas in which the subcommittee is interested. As is true of all surveys, the data collected is not conclusive. The limitations of the sample, possible imperfections in the questionnaire form, and the inevitable distortions of this method of research make caution necessary in interpreting results. The data collected is, however, useful in suggesting trends and areas of importance."

²⁵Information from Ed Carney, Director of the Department of Professional and Occupational Licensing (DPOL), November 1975.

²⁶These letters are on file at the Legislative Council.

²⁷Testimony at the 15 May 1976 meeting.

²⁸Information from Timothy Meloy, Staff Attorney, DPOL, 2 November 1976.

²⁹Information from Jeff Wulf, Trade and Industrial Education Supervisor of OSPI, 1 September 1976.

³⁰Testimony from Gordon Warner, Director of Vocational Education, OSPI, at 6 November 1976 meeting.

³¹Letters referred to in footnote 9. Testimony before the subcommittee, 11 September 1976.

³²Dr. Larry Keys to Harriett Meloy, Chairwoman, Board of Public Education provided to the researcher by Mrs. Meloy.

³³Information from Robert Scott, 1 September 1976. Survey conducted November 1975; its contents were discussed in the research report of January 17. Information from Robert Scott, 1 September 1976. Answer to questionnaire by Glenn Burgess, Director of the Billings Vocational-Technical Center, December 1975. (On file at the Legislative Council).

³⁴Telephone conversation with Larry Johnson, Vocational Planning and Evaluation Supervisor, OSPI, 2 September 1976.

³⁵MAC 24-3.14A(6)-S1420. Information from R. Michels, 21 July 1976, 23 August 1976, and August 1976. Cancellations rates compiled from MAB, Apprenticeship Totals.

³⁶Letter from R. Michels, 21 July 1976.

³⁷Meeting with the five vocational-technical directors, 18 August 1976. Attended and reported by Robert Person, Director of Research. Kenneth Johnston, A Survey of Present and Potential Postsecondary Vocational Education Programs in Montana (1975), p. 23.

³⁸State of Montana - Executive Planning Process (Working Papers) - Department of Labor and Industry.

³⁹Letter to Rose Weber, Executive Director, from R. Michels, 26 August 1976.

⁴⁰See Appendix A. These responses are on file at the Legislative Council.

⁴¹Butchers' Union Co. v. Crescent City Co., 111 U.S. 746, 762 (1884). Schware v. Board of Bar Examiners, 35 U.S. 232, (1957). Slochow v. Board of Education, 350 U.S. 551 (1956); Wieman v. Updegraff, 344 U.S. 183 (1952).

⁴²Sections 66-2412, 64-409, 66-806, 66-2363, 66-2368, 66-3201, 66-3402, State v. Gleason, 128 M 485.

⁴³Although both types of licenses are, in fact, issued by state agencies (in that state boards are usually administered by a state department or agency), the two are differentiated in this report to clarify the discussion.

⁴⁴Benjamin Shimberg, Barbara Esser, Daniel H. Kruger, Occupational Licensing: Practices and Policies (Washington, D.C.: Public Affairs Press, 1973), p. 222. John Phillip Halstead, At the Cross Roads: Public Policy for Professional and Occupational Licensing and Examining in Florida (Florida: House of Representatives) 1974, pp.1 through 7. The Council on State Governments, Professional and Occupational Licensing in the West, 1964, passim.

⁴⁵Studies of this type of licensing include Corinne Lathorp Bilb, Hidden Hierarchies: The Professions and Government (New York: Harper & Row, 1966). Wilbert E. Moore, The Professions: Roles and Rules (New York: Russell Sage Foundation, 1970). Ronald L. Akers, "The Professional Association and the Legal Regulation of Practice", Law and Society Review 2, (May, 1968). The Council of State Governments, Occupations and Professions Licensed by the States, Puerto Rico, and the Virgin Islands (1968), pp. 2 through 9. Shimberg, chapters VII-VIII. Stephen Braden, "Procedural Due Process and the Separation of Functions in State Occupational Licensing Agencies", Wisconsin Law Review, 1974, pp. 833 through 863.

⁴⁶Section 82A-108, R.C.M. 1947

⁴⁷U.S. Department of Labor, Grant No. 21-34-75-12, Cooperative Planning to Improve Occupational Regulation.

⁴⁸Shimberg, Improving Occupational Licensing, (Princeton, N.J.: ETS), 1976, passim - discusses the concerns expressed by 100 legislators and administrators at four national seminars on the issues of licensing. These concerns are also voiced in Legislative Council reports from the following states: Florida (1974), Illinois (1969), Iowa (1975).

⁴⁹Montana Legislative Council, State Treasury Fund Structure, (1962).

⁵⁰State v. Gleason, 128 M 485.

⁵¹The constitutionality of this law was challenged in Billings district court on 11 February 1976, by Petrolane Inc. and Montana-Dakota Utilities. The case is postponed until after the 1977 Legislative session. Information from Timothy Meloy, staff attorney, DPOL, April 1976, and 18 November 1976.

⁵²Information from Ed Carney, Director DPOL, information from John Hale, Administrator of the State Electrical Board, 11 March 1976. Letter from Bernice Luck, Administrative Secretary, Board of Professional Engineers and Land Surveyors, 5 April 1976.

⁵³Letter from Ed Carney, 20 April 1976. Letter from Robert McTaggart, Administrator, Board of Real Estate, 18 October 1976.

⁵⁴Information from Ed Carney, November 1975. The Board of Real Estate has established the passing score on their examination higher than any of the 21 states using the same test. Cummins, Board Member (Real Estate), December 1975.

⁵⁵Letter from Ed Carney, 20 April 1976.

⁵⁶Letter from Don Henen, Chairman of the Board of Registration, Professional Engineers and Land Surveyors, 28 October 1976.

⁵⁷Information from Ed Carney, December 1975. Verified by telephone interview, 27 August 1976. Testimony from Dr. John Madden, Board of Dentists, and Jack Rea, Board of Veterinary Medicine, 11 September 1976.

⁵⁸Letter from Robert McTaggart, 18 October 1976. Testimony from Robert Cummins, 11 September 1976.

⁵⁹Ibid.

⁶⁰Clyde L. Gett and Diane Gett vs. State of Montana, Department of Professional and Occupational Licensing, Board of Real Estate, Robert Cummins and Morris Camrud, Robert McTaggart, filed 14 July 1976. The plaintiffs ask \$45,000 for loss of income. The case is waiting trial in Lewis and Clark district court.

⁶¹Letter from Buckland Agencies, 9 July 1976. Letter from Ed Carney, Director of the Department of Professional and Occupational Licensing, 24 August 1976. Telephone interview with Gordon Buckland, 27 August 1976. Letter from Dan L. Kirby, Western Surety Company, 12 August 1976.

⁶²Interview with Robert Durand, Head of Bond Division, United States Fidelity and Guaranty, 16 November 1976.

⁶³Letter from Dan Kirby, 12 August 1976. Information from Tim Meloy, DPOL staff attorney, April 1976. Letter from Gordon Buckland, 9 July 1976.

⁶⁴Interview with Robert Durand, 16 November 1976.

⁶⁵Information from Ed Carney, 18 October 1976.

⁶⁶Sections 66-2113, 66-2405, 66-2609, 66-3325, 66-3510, R.C.M. 1947.

⁶⁷Letter from Ed Carney, 24 August 1976.

⁶⁸Consultation with Robert Pyfer, Legislative Council staff attorney, 26 August 1976. Interview with Robert Durand, 16 November 1976.

⁶⁹Interview with Robert Durand, 16 November 1976.

⁷⁰The sources quoted in footnotes 44, 45, and 48.

⁷¹The six-year plans referred to are those prepared by each board for the "State of Montana-Executive Planning Process" of the Office of Budget and Program Planning. These quotations are taken from the "Working Papers", which are subject to change and review. Legislative Auditor, Department of Professional and Occupational Licensing, Board of Medical Doctors, Report on Audit, 1972, p. 14.

⁷²Information from Dixie Heisey, Secretary, Board of Medical Examiners, February, 1976.

⁷³Letter from Robert Woodahl, Attorney General, to Ed Carney, 31 October 1974. Roger Tippy, "Report" to the Administrative Code Committee, 1 February 1976, p.4.

⁷⁴"Working Papers".

⁷⁵Audit of Board of Medical Examiners, pp. 16-17. Illinois Legislative Council, "An Issue Paper Concerning Public Membership on Licensing Boards" (1974), "Vocational Licensing and the Public Interest" (1969).

⁷⁶"Working Papers".

⁷⁷Copy of bill provided by Colorado Legislative Council, 29 March 1976. Great Falls Tribune, 23 April 1976.

⁷⁸Milton Friedman, Capitalism and Freedom (Chicago: University of Chicago Press, 1962), pp. 139 through 159.

⁷⁹Annual Report, 1972.

⁸⁰Section 82-4228, R.C.M. 1947.

⁸¹National Education Association, Teacher Standards and Practices Commissions, August 1974, passim.

⁸²Howard Vollmer and Donald Miller (ed.), Professionalization (Englewood Cliffs: Prentice Hall), 1966, pp. vii-x. Myron Lieberman, Education as a Profession (Englewood Cliffs: Prentice Hall), 1960, pp. 19-45; chapters 15-16; Donald A. Meyers, Teacher Power -- Professionalization and Collective Bargaining (Lexington: D.C. Heath), 1973, pp. 21 chapters 5, 9 and 10.

⁸³Myers, pp. 141-2. D.D. Darland, "The Professions's Quest for Responsibility and Accountability", Phi Delta Kappan, LII (September 1970).

⁸⁴Wayne Ferguson, "The Myth of the Teaching Profession", American School Board Journal, 158: 25-6, July 1970. R.K. Sparks and H. Strauss, "How Soon Before Those 'Professional' Teachers of Yours Can Be Sued for Malpractice?" American School Board Journal, 159: 19-22, June 1972.

⁸⁵The responses to the questionnaire are on file at the Legislative Council.

⁸⁶E.H. Woellner, Requirements for Certification (Chicago: University of Chicago, 1975), passim.

⁸⁷Section 75-6002, R.C.M. 1947. "General Categories of Revised Policies of the Board of Public Education" 1975.

⁸⁸Information from William Byers, Administrative Accountant, OSPI, 5 July 1976.

⁸⁹Section 75-6005, R.C.M. 1947, OSPI, "Certification of Teachers and School Administrators in Montana" (1976).

⁹⁰Dr. Freeman Wright, "Teacher Preparation in Montana", 1976.

⁹¹Report of Ad Hoc #1, General Intent and Direction of Teacher Supply Committee (contained in the minutes of the Teacher Supply Committee, Office of the SPI). The minutes of the committees were the source of information in the following section.

⁹²This and the following information is taken from the minutes of the Advisory Committee on Teacher Education and Certification, kept by the Office of the SPI. Information from John Voorhis, Teacher Education Supervisor, 29 March 1976.

⁹³Information from John Voorhis, 29 March 1976.

⁹⁴The responses to these questionnaires are on file at the Legislative Council.

⁹⁵ During subcommittee redrafting, the name of the body was changed from "commission" to "board" to reflect Executive Reorganization terminology.

⁹⁶ Information from J.C. Weingartner, Attorney General's office, 16 August 1976.

⁹⁷ Office of Budget and Program Planning, Fiscal Note no. 184-175.

APPENDIX A
QUESTIONNAIRE DATA

The number of questionnaires sent to each type of business is listed below. The businesses were selected randomly from a list of those sponsoring apprenticeship programs and on-the-job training.

3	construction	2	flooring
8	tin and sheet metal	1	neon and advertising
9	farm equipment repair	2	carpenters and cabinet workers
5	radio and television repair	3	electric co-cooperatives
5	printing	3	upholstery
7	auto repair and welding	2	business machine repair
2	trucking & truck repair	1	roofing
1	jewelers	1	foundry
1	flying service	1	refrigerator repair
5	electricians	1	drilling and pumping
2	shoe and saddle shop	2	bakery
8	masons	2	engineering
1	hydraulics and elevators	5	plumbers
1	hardware	2	unspecified
6	glass and painting		

APPENDIX A

Questionnaires were also sent to the main offices of:

Safeways' Stores
Buttreys' Stores
Hoerner-Waldorf
Montana Power Company
Pacific Light and Power
Stauffer Chemical Company
Montana Contractors Association
Montana Hardware and Impelement Association
Montana Chapter of National Electrical Contractors
Montana Automobile Dealers Association

The number of questionnaires sent to each city and town is listed below:

Anaconda	3	Havre	3
Billings	23	Hamilton	3
Bozeman	15	Helena	4
Chester	1	Kalispell	5
Dillon	3	Lewistown	3
Glendive	2	Livingston	2
Glasgow	3	Missoula	11
Great		Polson	1
Falls	13	Ronan	1
Hardin	2	Sidney	2

APPENDIX A

FINAL RESULTS OF QUESTIONNAIRE TO MONTANA BUSINESSES

Total questionnaires mailed to Montana businesses.....100
Total responses received by April 16 cut-off date..... 39
Percentage of response..... 39%

1. Is there a shortage of skilled workers in your business field?

Yes 32 or 82.0%
No 7 or 18.0%
Undecided 0

39 total responses

If so, in which crafts? (some businesses mentioned shortages in more than one craft)

Business machine repair	3	Water well drillers	1
Shoe and saddle repair	3	Pump servicemen	1
Pressmen	2	Television & radio	
Inside wiremen	1	servicemen	2
Auto electric mechanic	1	Plumbers	1
Diesel mechanic	1	Foundry Workers	1
Roofers	2	Welders	2
Book binders	1	Partsmen	1
Glaziers	2	Truck mechanics	1
Sheet metal workers	1	Tractor and equipment	
Instrument mechanics	2	mechanics	1
Bakers	1	Auto mechanics	2
Iron Workers	1	Machinists	1
Meatcutters	1	Electrician	1
Carpenters	1	Motor rewinders	1

2. Are you now training any apprentices registered with the Montana Apprenticeship Bureau?

Yes 17 or 43.6%
No 22 or 56.4%

39 total responses

If so, how many?

131 total

APPENDIX A

3. In your experience, are workers who have completed apprenticeship training more thoroughly trained than workers trained by other methods?

Yes	25 or 64.1%
No	8 or 20.5%
Undecided	6 or 15.4%

39 total responses

4. If you have trained apprentices in the past, how long have they remained in your company after completing their apprenticeships?

0-1 year	10 or 29.4%
1-3 years	4 or 11.8%
3-10 years	7 or 20.6%
10-retirement	13 or 38.2%

34 total responses

Comment: "Demand is so high they don't stay too long."

5. Did any apprentices cancel their apprenticeship agreements during training?

Yes	27 or 69.2%
No	12 or 30.8%

39 Total responses

If so, what was the reason? (some employers gave more than one reason)

Offer of better paying job	8 or 25.8%
Inability to learn the job	7 or 22.6%
Laid off	3 or 9.7%
Didn't like work	3 or 9.7%
Felt training inadequate	1 or 3.2%
Other	9 or 29.0%

31 total responses

6. If you are now training apprentices, do you employ the maximum number of apprentices allowed by collective bargaining apprentice/journeymen ratios?

Yes	10 or 31.3%
No	9 or 28.1%
More apprentices than allowed	2 or 6.3%
No collective bargaining ratio in force	11 or 34.3%

32 total responses

Comments: "What good is the maximum in a small shop?"

APPENDIX A

7. If you have fewer apprentices than allowed by these agreements, please answer the following questions:

a. If you knew that more apprentices than at present were available in your business field, would you hire more?

Yes	8 or 28.6%
No	15 or 53.6%
Uncertain	5 or 17.8%

Comments:

"There were plenty of young men available However, not enough work is available to train them."

"We need someone right now."

28 total responses

b. Would you hire more apprentices if more potential employees came to you and asked you to sponsor them in apprenticeship programs?

Yes	6 or 21.4%
No	17 or 60.7%
Uncertain	5 or 17.8%

28 total responses

c. If not, please indicate the reasons:

<u>Lack of openings in your business?</u>	12 or 60.0%
---	-------------

<u>Too much paperwork involved in apprenticeship programs?</u>	3 or 15.0%
--	------------

<u>Too expensive to train apprentices?</u>	8 or 40.0%
--	------------

<u>Others, please specify?</u>	4 or 20.0%
--------------------------------	------------

"Apprentices' wages too high for work performed during first two year period."

"We don't hire apprentices just to hire them."

"The more paperwork you people give us like the apprenticeship bureau, the less we'll hire."

"Too much time involved -- training people for someone else."

"Unions set limit."

"Most we have had are either no qualified or not interested in really learning the profession."

"Not satisfied 100% with present program."

"Vocational-technical school trained persons are more qualified and require less on-the-job training."

20 total responses (some respondents indicated more than one reason).

d. Would you hire more apprentices if state education funds paid:

<u>10-20% of the cost of their training?</u>	0 or 0%
<u>20-40% of the cost of their training?</u>	3 or 10.0%
<u>40-60% of the cost of their training?</u>	12 or 40.0%
"No" to all amounts	14 or 46.7%
"Any amount would help"	1 or 3.3%

Comments:

"We'll take care of our own needs without handouts and meddling from you people."

"We are very skeptical of government programs because of red tape and.....involved."

"This is not as important as the genuine desire to learn the trade."

"Coordination between present high school shop programs and local employers would cost little and would benefit all."

"It is much too costly to pay men to take your training. After all, how many colleges pay their students?! Take the money spent on the Job Corp training and pay 100% of a man's training to a competent employer--and make sure the man does his part."

30 total responses

e. Would you train more workers in your business if the individual paid:

<u>10-20% of the cost of their training?</u>	4 or 11.8%
<u>20-40% of the cost of their training?</u>	3 or 8.8%
<u>40-60% of the cost of their training?</u>	4 or 11.8%

APPENDIX A

Undecided	1 or 3.4%
"No" to all amounts	20 or 58.8%
"Any amount would help"	1 or 3.4%

Comments:

"We're not looking for anything but a good employee and we'll pay his training and see to it that he earns it."

"I think the worker should be involved in his training."

34 total responses

8. How many skilled workers do you employ?

1374 total

How were they trained?

<u>Vocational-technical schools</u>	80 or 5.8%
<u>Apprenticeship</u>	368 or 26.8%
<u>On-the-job training by your company</u>	568 or 41.3%
<u>On-the-job training provided by another company</u>	215 or 15.6%
<u>Training in the armed services</u>	113 or 8.2%
<u>Other</u>	12 or .8%
<u>Combination</u>	18 or 1.3%

Comments:

"I don't think the unions do all they can to encourage apprentices or, rather, to encourage apprenticeship prospects."

"The biggest problem with on-the-job apprenticeship training is that after about a year or two of training the apprentice will accept another job at a higher paid salary from some private owner or shop that offers said apprentice a "big deal." Consequently our training for our own good is lost."

"Although apprenticeship training is apparently a quite successful form of training for the crafts that I'm involved in (shoe and saddle repair), a form of trade school experience would be helpful."

"We are training apprentices, but don't wish to have anything to do with this phoney bureau."

Under 18 1 or 3.4
"No" to all amounts 50 or 58.8
Any amount would suit 1 or 3.4

Comments:

"We're not looking for anything over a good employee and we'll pay his training and see if it that he gains it."
"I think the work is enough to be involved in his training."
34 total responses

8. How many skilled workers do you employ?
1374 total

How were they trained?

Training Method	Percentage
Vocational-technical schools	80 or 5.8%
Apprenticeship	368 or 26.8%
On-the-job training by your company	568 or 41.3%
On-the-job training provided by another company	415 or 30.2%
Training in the armed services	113 or 8.2%
Other	12 or .8%
Combination	18 or 1.3%

Comments:

"I don't think the unions do all they can to encourage apprentices or, rather, to encourage apprenticeship prospects."
"The biggest problem with on-the-job apprenticeship training is that after about a year or two of training the apprentice will accept another job at a higher paid salary from some private owner or shop that offers said apprentice a "big deal." Consequently our training for our own good is lost."
"Although apprenticeship training is apparently a quite successful form of training for the crafts that I'm involved in (shoe and saddle repair), a form of trade school experience would be helpful."
"We are training apprentices, but don't wish to have anything to do with this phoney bureau"

APPENDIX A

RESULTS OF QUESTIONNAIRE TO MONTANA BUSINESS ASSOCIATIONS

Total questionnaires mailed to Montana business associations.....5
Total responses received by April 16 cut-off date.....5
Percentage of responses 100%

1. Is there a shortage of skilled workers in your business field?

Yes	3 or 60%
No	2 or 40%

If so, in which trades?

Inside wiremen
Farm equipment mechanics and partsmen
Auto and truck mechanics
Body technicians

2. In general, do members of your association employ the maximum number of apprentices per journeyman allowed by collective bargaining agreements?

Yes	1 or 20%
No	4 or 80%

3. If not, please indicate possible reasons: (both specified more than one reason)

Lack of openings in your business? 0

Too much paperwork involved in apprenticeship programs? 2 or 50%

Too expensive to train apprentices? 2 or 50%

Comments:

"In some cases, our members have never had the State Apprenticeship Program explained to them."

"Union halls have adequate supply of journeymen for dispatch on hiring hall procedures also.?"

2 total responses

4. Would members of your association hire more apprentices if state education funds paid:

<u>10-20% of the cost of their training</u>	0
<u>20-40% of the cost of their training</u>	1 or 20.0%
<u>40-60% of the cost of their training</u>	2 or 40.0%
<u>"No" to all amounts</u>	2 or 40.0%

5. Would members of your association train more workers if the individual workers paid:

<u>10-20% of the cost of their training?</u>	0
<u>20-40% of the cost of their training?</u>	0
<u>40-60% of the cost of their training?</u>	4 or 80%
<u>"No" to all amounts</u>	1 or 20%

Comment:

"If funds were used for offsite related training and/or pre-apprenticeship training."

APPENDIX B

THE COMPOSITION OF BOARDS ADMINISTERED BY THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Abstracters: Three registered abstracters appointed by the governor, no two from the same county.

Board of Architects: Three architects, not more than two residents of the same county, who have been practicing for not less than three years. The governor shall appoint the members of the board with the consent of the Senate.

Board of Athletics: Three members appointed by the governor.

Board of Barbers: Three barbers, who have been practicing for at least five years in Montana prior to their appointment, appointed by the governor.

Board of Chiropractors: Three chiropractors, who have been practicing in the state for at least one year, appointed by the governor. No two members shall be graduates of the same school or college of chiropractic.

Board of Cosmetologists: Four cosmetologists, practicing in Montana for a least five years prior to appointment and selection by the governor from a list submitted by the Montana State Hairdressers' Association. Each member shall be at least twenty-five years old and a graduate of a high school or its equivalent. No two members of the board shall be members of or affiliated with a school of cosmetology. The governor shall also appoint an attorney licensed to practice in Montana to the board.

State Electrical Board: Five member board composed of one member of the public, one consumer member of rural electric cooperatives, one master licensed electrical contractor, one licensed journeyman electrician, one representative of investor-owned electric utilities. The governor, with the consent of the Senate, will appoint the members, who must all be residents of the state, from lists submitted by each group.

Board of Dentists: Five dentists, U.S. citizens who have been practicing in Montana for at least five years, appointed by the governor from a list submitted by the Montana Dental Association.

Board of Hearing Aid Dispensers: Five member board composed of one certificate holder from the American Board of Otolaryngology, one certificate holder in audiology from the American Speech and Hearing Association, three hearing aid dispensers with five years experience. The members shall be appointed by the governor from lists submitted by each association.

Board of Horse Racing: Five Montana citizens appointed by the governor, one of whom shall be a breeder of race horses,

one a member of an independent horse racing association, one a member of a county fair board that conducts a fair featuring parimutual betting, and two members whose occupation is unrelated to horse racing. No two members shall reside in the same county.

Board of Landscape Architects: Five members appointed by the governor, three of whom must be licensed landscape architects.

Board of Massage Therapists: Three masseurs, who have been practicing in Montana for at least one year, to be appointed by the governor.

Montana State Board of Medical Examiners: Seven members, all U.S. citizens, appointed by the governor with the consent of the Senate. Six members are to be doctors of medicine with at least five years of practice in Montana, no two residing in the same county. The remaining member is to be a doctor of osteopathy, also with five years of practice in the state, although the requirement may be waived for the member's initial term.

Board of Morticians: Five licensed morticians, appointed by the governor with the consent of the Senate.

Board of Nursing: In matters relating to "professional nursing": the board to be five professional nurses, with five years of experience, to be appointed by the governor. In matters relating to "practical nursing": the board to be composed of five nurses serving on the "professional nurses" board plus three practical nurses, with three years of experience, to be appointed by the governor.

Board of Nursing Home Administrators: Five voting members, comprised of two nursing home administrators and three representatives of professions or institutions concerned with the care of chronically ill and infirm aged patients, all appointed by the governor from a list submitted by the board of directors of the Montana Nursing Home Association, Inc. The director of the Department of Health and Environmental Sciences, or his designee, and the director of Social and Rehabilitation Services, or his designee, are ex officio, nonvoting members of the board.

Board of Optometrists: Three optometrists, practicing exclusively in Montana, appointed by the governor.

Board of Osteopathic Physicians: Three resident osteopaths appointed by the governor.

Board of Pharmacists: Three pharmacists, two with at least five years of experience and one with at least fifteen years, appointed by the governor from a list of five persons submitted by Montana State Pharmaceutical Association.

Board of Plumbers: Seven member board comprised of two master plumbers and two journeyman plumbers, residents of Montana for

APPENDIX B

at least one year and practicing their craft for five of the eight years preceding their appointment; one professional engineer qualified in mechanical engineering; one member of the public who is not engaged in selling or installing plumbing equipment, all to be appointed by the governor. The appointed representative of the Montana State Board of Health, who shall be a sanitary engineer, shall also be a member and serve as the secretary of the Board.

Board of Podiatry Examiners: Five member board composed of one physician selected by Montana State Board of Medical Examiners at its annual meeting; the secretary of the Montana State Board of Medical Examiners; and three podiatrists appointed by the governor from a list submitted by the Montana Association of Podiatrists. The podiatrists shall have practiced in Montana for at least two years prior to their appointment.

Board of Professional Engineers and Land Surveyors: Seven members composed of five professional engineers, with at least twelve years of experience, five of them responsible for important engineering work or teaching in Montana and two registered and practicing land surveyors who have at least twelve years of experience with five of them in charge of important land surveying work in Montana. All are appointed by the governor and must be citizens of the United States and residents of Montana.

Board of Psychologists: Three licensed psychologists, residents of Montana and citizens of the United States, appointed by the governor.

Board of Public Accountants: Five member board composed of three certified public accountants, practicing for five years prior to the appointment, appointed by the governor from a list submitted by the Montana Society of Public Accountants; and two public accountants with five years experience, appointed by the governor from a list submitted by the Montana Society of Public Accountants.

Board of Radiologic Technologists: Seven member board comprised of two radiologists, one physician, one chiropractor, and three radiologic technologists, all currently practicing in Montana, to be appointed by the governor.

Board of Real Estate: Five member board comprised of four residents, to be appointed by the governor, at least two of whom have been actively engaged as real estate brokers in the state for at least five years and are not from the same congressional district; and the Director of Agriculture, who is chairman of the board. Not more than three members shall be of the same political party.

Board of Speech Pathologists and Audiologists: Five members, appointed by the governor, at least two of whom shall be speech pathologists and two audiologists with five years of experience, plus a consumer of speech pathology or audiology services who is not a licensee of any board within the department.

Board of Veterinarians: Six member board composed of five licensed veterinarians, who have been practicing in the state for at least five years, and one consumer of veterinary services who shall not be a licensee of any board under the Department of Professional and Occupational Licensing. The governor shall appoint all members, selecting the veterinarians from a list submitted by the Montana State Veterinary Medical Association.

Board of Warm Air Heating, Ventilation, and Air Conditioning: Seven members appointed by the governor, comprised of two master and two journeyman mechanics, who shall be over the age of majority and residents of Montana for at least one year; one representative of the Department of Administration responsible for the administration of Title 69, chapter 21, who shall act as secretary, one attorney from the department; one representative of the state fire marshal's office.

Board of Water Well Contractors: Five voting members, one hydrogeologist appointed by the director of the Montana Bureau of Mines and Geology; one appointed by the director of Natural Resources and Conservation; one appointed by the director of Health and Environmental Sciences; two licensed water well contractors, resident in the state for three years and practicing for five years, appointed by the governor with the advice and consent of the Senate.

Board of Sanitarians: Three members, all registered sanitarians with three years of experience in the state, appointed by the governor.

Source: Title 66 and Title 82A-1610-1607, R.C.M.

APPENDIX C
PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS
Statutory Fees

	1966	1976	
ABSTRACTERS BOARD OF EXAMINERS ¹			
1. Examination	\$25	\$35	Each
2. Licenses			
Certificate of Registration	5	5	Initial
Renewal	1	5 max.	Annual
Certificate of Authority	5	25 max.	Initial
Renewal	5	25 max.	Annual
ACCOUNTANCY, BOARD OF EXAMINERS IN			
1. Examination	30	50	Initial
Additional	5	10	Each section retaken
2. Certificate	5	20	Annual
Renewal		20	Annual
ARCHITECTURAL EXAMINERS, BOARD OF			
1. Examination	15	60	Two examinations within one year.
2. Certificate	10	20	Annual
3. Reciprocal license		100	Initial
BARBER EXAMINERS, BOARD OF			
1. Examination	15	20	Initial
2. Licenses			Annual
Certificate of registration	4	10	Annual
Restoration of lapsed certificate - late renewal	5	10	Each. In addition to annual fee.
CHIROPODY MEDICAL EXAMINERS, BOARD OF			
1. Examination and license	35	35	Initial
2. Licenses			
Renewal	3	3	Annual
Restoration of lapsed license	35	35	Each
Reciprocity license	50	50	Initial
Penalty - late renewal (90 days)		35	
CHIROPRACTIC EXAMINERS, STATE BOARD OF			
1. Examination	25	25	Each
2. License	25	25	Initial
Renewal	5-\$15	25	Annual. Fee set by board.
Reciprocity license	50	No	Initial
		Reciprocity	

¹The name of the boards as they existed in 1966; most were changed during Executive Reorganization.

APPENDIX C

	1966	1976	
COSMETOLOGY, STATE EXAMINING BOARD OF			
1. Examination to practice	\$10	\$20	Each
Examination to teach	10	30	
2. Licenses			
Operator	3	4.50	Annual
Manager-operator	5	7.50	Annual
Inactive manager-operator	3	7.50	Annual
Teacher	5	7.50	Annual
Student	3	3.50	Annual
Itinerant operator	25	37.50	Annual
Temporary (90 days)	2	3	Each. Not renewable
Late renewals	2.50	2.50	Each. Penalty fee.

DENTAL EXAMINERS, STATE BOARD OF DENTISTS

1. Examination	25	50	Each
2. Licenses			
Certificate of registration- license	25	15	Initial
Renewal	7	15	Annual
Late renewal	3	3	Each. Penalty fee.
Reciprocity license	50	Not Available	Initial
Absentee license	5	15	Annual

DENTAL HYGIENISTS

1. Examination	10	20	Each
2. Licenses			
Renewal	1	3	Annual
Reciprocity license (only Wyoming)	10	20	Initial

ELECTRICAL BOARD, STATE

1. Examination	10	10	Each
2. Licenses			
Master Electrician	25	25	Annual
Journeyman	10	10	Annual
Electrical Contractor	75	75	Annual
Reciprocity licenses	Fee same as other licensee.		Initial

MEDICAL EXAMINERS, BOARD OF PHYSICIANS

1. Examination	75	80	Two examinations within 6 months.
2. Licenses			
Registration	10 max.	20	Annual. Set by board at not more than \$25
Reciprocity registration	100	100	Initial

APPENDIX C

ENGINEER-IN-TRAINING		1966	1976	
1.	Registration	\$10	\$20	Initial
	Reciprocity registration	1	10	Initial
LAND SURVEYOR				
1.	Registration	10	50	Initial
	Renewal	5	12	Annual
	Duplicate certificate of registration	3	3	Each
REAL ESTATE COMMISSION *				
1.	Examination	50	50	Each
2.	Licenses		20	Retakes
	Broker		50	Initial
	Salesman		25	Initial
	Resident broker	50	50	Annual
	Nonresident broker	50	50	Annual
	Salesman	25	25	Annual
	Additional office or place of business	25	25	Annual
	Change of place of business, employer, or contractual associate	25	25	Each
	Duplicate license	10	5	Each
	Duplicate pocket card	10	5	Each
SANITARIANS REGISTRATION COUNCIL				
1.	Registration	20	35	Initial
	Renewal	10 max.	10	Annual. Set by board at not more than \$10.
	Reciprocity registration	20	35	Initial
VETERINARY MEDICAL EXAMINERS, STATE BOARD OF *				
1.	Examination	25	25	Each
2.	Licenses			
	Renewal registration	10 max.	10	Annual. Set by board at not more than \$10.
	Restoration of registration	10 max.	25 max.	Each. Set by board at not more than \$10. Payment of lapsed fee also required.
WATER WELL CONTRACTORS' EXAMINING BOARD				
1.	Application for license	100	100	Initial
	Renewal license	25	25	Annual
MIDWIVES				
1.	Application (must be R.N.)		10	
2.	Renewal		10	

APPENDIX C

	1966	1976
MASSEURS		
1. Examination		\$35
2. Renewal		25
HEARING AID DISPENSERS		
1. Temporary license & examination fee		25
2. Renewal for temporary license		25
3. Renewal		80
NURSING HOME ADMINISTRATOR *		
1. License - active		60
License - inactive		25
2. Examination		25
3. Reciprocity		85
4. Renewal - active		50
Renewal - inactive		25
PSYCHOLOGISTS		
1. Application fee		50
2. Examination		40
3. License fee		10
4. Renewal		50
PRIVATE INVESTIGATORS		
1. Application or investigation fee		25
2. Examination fee		10
3. Original license and annual renewal		20
4. Security check		5
ACUPUNCTURE		
1. Examination		50
2. License		20
3. Reciprocal license		20
4. Renewal		20
5. Investigations		350
HEARING, VENTILATION, WARM AIR		
1. Application		75
Master		35
Journeyman		
2. Examination		50 max.
Master		25
Journeyman		
3. Renewal		To be set from \$35 to \$75

APPENDIX C

	1966	1976	
PHYSICAL THERAPISTS			
1. Examination	\$25	\$50	Two examinations within 6 months.
2. Application for license	5	25	Initial
3. Licenses			
Renewal	2	5	Annual
Temporary (not to exceed 1 year)	10	10	Each
Reciprocity license	25	25	Initial
MORTICIANS, STATE BOARD OF			
1. Examination	25	75 max.	Each
2. Licenses			
Intern mortician	3	3	
Mortician	10 max.	15	Annual.
Reinstatement of license - penalty - late renewal	25	25	Each. Penalty fee plus payment of unpaid fees.
Mortuary	25 max.	25	Each. Inspection fee set by board at not more than \$25 per year.
NURSING, STATE BOARD OF REGISTERED NURSES			
1. Examination	25	35	Each
2. Licenses			
Renewal	5	10	Annual
Reciprocity license	25	35	Initial
LICENSED PRACTICAL NURSES			
1. Examination	25	35	Each
2. Licenses			
Renewal	5	10	Annual
Reciprocity license	25	35	Each
OPTOMETRY, STATE BOARD OF EXAMINERS IN			
1. Examination	25	25	Each
2. Licenses			
Certificate of registration	10	10	Initial
Renewal of registration	20	50 max.	Annual
Reciprocity registration	25	25	Initial
Late renewal		35	

1966

1976

OSTEOPATHIC EXAMINERS, STATE BOARD OF

1. Examination and license	20	20	Each
2. Licenses			
Renewal	2	15	Annual
Inactive licensee renewal	1	7.50	Annual
Reinstatement of license	10 max.	50 max.	Payment of all lapse fee, but not more than \$50

PHARMACY, STATE BOARD OF *

1. Examination	15	25	Each. Applicant may take examination a second time without paying fee.
2. Licenses			
Late renewal fee			
Pharmacist		15	
Pharmacy		20	
Renewal	5	15	Annual
Reciprocity registration	25	100	Initial
Pharmacy	5	20	Annual
Stores other than pharmacy selling packaged drugs	5	5	Annual
Interns		15	Annual

PLUMBING EXAMINERS, BOARD OF

1. Examination			
Master plumber	50	100	Each
Journeyman plumber	25	50	Each
2. Licenses			
Renewal master plumber	25	100 max.	Annual
Renewal journeyman plumber	10	25 max.	Annual
3. Copies of code	5 max.	cost 7.30	Each. Set by board

PROFESSIONAL ENGINEERS AND LAND SURVEYORS, STATE BOARD OF
REGISTRATION FOR

PROFESSIONAL ENGINEER AND LAND SURVEYOR

1. Registration	30	75	Initial
Renewal	5	18	Annual

PROFESSIONAL ENGINEER

1. Registration	20	30	Initial
With certificate of qual- ification	10	30	Initial
Renewal	5	12	Annual
Reciprocity		40	

APPENDIX C

1966

1976

ELECTROLOGY

1. Application	\$50
2. Examination	20
3. Renewal	7.50

RADIOLOGIC TECHNOLOGISTS

1. Examination	50 max.	Each
2. License	50 max.	Initial

LANDSCAPE ARCHITECT

1. Application	75	
2. Examination	100	
3. Renewal	60	Annual

SPEECH PATHOLOGISTS

1. Application	40
2. License	25
3. Renewal	Not yet determined

APPENDIX D

I. LEGAL BASIS OF PRORATION

The Department of Professional and occupational licensing was created in 1971 to centralize professional licensing in Montana. The 26 citizen boards that had been issuing the licenses before Executive Reorganization, retained many of their powers, but they were relocated in Helena and administratively attached to the Department.¹ Sections 82A-108 and 82A-1603 outlines their relationship to the Department:

(1) An agency allocated to a department for administrative purposes only in this title shall:

- (a) Exercise its quasi-judicial, quasi-legislative, licensing, and policymaking functions independently of the department and without approval or control of the department.
- (b) Submit its budgetary requests through the department.
- (c) Submit reports required of it by law or by the governor through the department.

In its turn, the Department shall:

- (a) Direct and supervise the budgeting, record keeping, reporting, and related administrative and clerical functions of the agency.
- (b) Include the agency's budgetary requests in the departmental budget.
- (c) Collect all revenues for the agency and deposit them in the proper fund or account; except as provided in section 82A-1603(6), the department may not use or divert the revenues from the fund or account for purposes other than provided by law.
- (d) Provide staff for the agency. Unless otherwise indicated in this title, the agency may not hire its own personnel.
- (e) Print and disseminate for the agency any required notices, rules, or orders adopted, amended, or repealed by the agency.
- (f) Provide all the administrative and clerical services needed by the boards within the department, including corresponding, taking applications for licenses, issuing licenses granted by the boards, renewing licenses, registering, taking minutes of board meetings and hearings, and filing.
- (g) Standardize and keep in Helena all official records of the boards.
- (h) Make arrangements and provide facilities in Helena for the meetings, hearings, and examinations of each board, or elsewhere in the state if requested by the board.

APPENDIX D

(i) Administer and grade examinations required by each board or by law for licensing, unless the board determines that experts or professionals are necessary to administer or grade a particular examination.

(j) At the request of a board, investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department.

(2) The department head of a department to which any agency is allocated for administrative purposes only in this title shall:

(a) Represent the agency in communications with the governor.

(b) Allocate office space to the agency as necessary, subject to the approval of the department of administration.

The Department does not receive any appropriation from the general fund to perform these functions. Instead, Section 82A-1603 requires the department to "assess the costs of the department to the boards on a prorata basis according to the number of man days and the actual operating costs of the department for each board."

II. METHOD OF PRORATION

The Department calculates the share each board pays by taking the percentage of time hours plus the percentage of money expended by the board in the last year times 50% and dividing the current Department Central Services budget by this figure.

For example, the Board of Cosmetologists spent \$38,827 on Board business in FY 1976. This was 5.0926% of the total \$762,421 spent by all boards. Employees of the Department - the Board's secretary and its inspector - worked 2866 hours on Board business in that year. This was 6.7981% of the 42,159 hours worked by all Department employees. The Department figures the Board's share of expenses as follows:

ADMINISTRATIVE SERVICES

$$50\% \left(\frac{\text{Board expenses}}{\text{All Boards expenses}} \times \text{Department's budget} \right) + 50\% \left(\frac{\text{Staff hours}}{\text{All staff hours}} \times \text{Department's budget} \right) \\ \text{OR} \\ \text{Cost to Board for Administrative support from Dept.}$$

$$.50(.050926 \times \$81,490) + .50(.067981 \times \$81,490) = \$4,724.$$

Some impoverished boards, like the Osteopaths, paid only \$38 for Department costs because it spent only \$458 during the year and used only 15 hours of staff time. The Board of Real Estate, on the other hand, paid \$16,913 because it spent \$150,081 and

APPENDIX D

used 9,650 hours of staff time. The number of persons the Board licenses or the space it occupies in the Department's offices, thus, do not determine the cost assessed to each board, as was suggested at the last meeting.

In a recent audit of the Department, a private accounting firm under contract to the Legislative Auditor said the Department's method is "fair and complies with the law (82A-1603(6))."²

In return for this prorated share, the Board gets:

- 1) Rent, utilities, and janitorial services;
- 2) basic phone costs;
- 3) supplies and materials;
- 4) accounting work in handling collections, expenditure reports, personnel records, payroll, insurance, and purchase orders; and helps pay:
- 5) the salaries of the director, administrative assistant, one secretary, and partial salary for the receptionist, mailing room work and division administrators.

The Director has deliberately kept the budget for the Department low so that Boards do not have a heavy prorata share to pay.³ In FY 1976, each board paid approximately 10% of its total budget to the Department. This seems relatively low for rent, utilities, and bookkeeping.⁴

In addition to prorated fees to the Departments, the Boards pay a fee for legal services if they request the use of the Department's attorney for rule-drafting or presiding at hearings. The size of the fee is determined by dividing the number of hours the attorney spends on Board business by the total number of hours he spent on all boards' business and multiplying this by the Legal Department's budget of \$17,478 (\$15,426 salary, \$1,852 employee benefits, and \$200 for supplies in FY 1976).⁵

Since the Department is required by statute to "supervise the (Boards') budgeting (and) recordkeeping," the Director sends each Board a financial report every time it meets. A sample appears on page 5. This financial report shows the revenue received, the Board's expenses to date, and the balance remaining in its fund. The Director also notes what percent of the fiscal year has elapsed and what percent of the Board's funds have been spent.

One budgeting problem the Director has noted is the limited control the Department has over the budgets of its administratively attached boards. Section 82A-108 allows the boards to "exercise its ... functions, independently of the department and without approval or control of the department." However, the Department is charged to "direct and supervise the (Board's) budgeting." The Director has not felt that under these statutes he has the

APPENDIX D

authority to veto Board members' proposed expenditures, even if they will overrun their earmarked funds.

The Director of the Governor's Office of Budget and Program Planning considers, however, that the Department must "take whatever action is necessary to prevent a board allocated to it from overspending the budget authorized by the Legislature." At present, the Director of the Department advises Board members if any proposed expenditures will overdraw their account and refuses to sign warrants in excess of this amount.

1. Montana Commission on Executive Reorganization, Executive Reorganization, 1970, pp. 238-240.
2. Misfeldt & Garrett to Ed Carney, 16 September 1976.
3. Interview with Ed Carney, Director, 8 October 1976.
4. The percent of the total budgets spent on administrative services in Fy 1976 is shown below:

Board of Nursing	10.2%
Board of Hearing Aid Dispensors	8.5%
Board of Real Estate	9.3%
Board of Medical Examiners	5.0%
Board of Electricians	5.4%
Board of Morticians	9.4%
Board of Nursing Home Administrators	9.8%
5. Information from Ed Carney, 8 October 1976. Figures from Department Working Papers, FY 1976.
6. Information from Ed Carney, 8 October 1976. Letter from 11 March 1975.

APPENDIX D
BOARD OF PLUMBERS
Financial Report
7-1-76 to 10-2-76

		Approp.	Account
Earmarked Account Balance 7-1-75			40,058.67
FY 76 Appropriation		55,397.00	
Revenue:			
Licenses	12,625.00		
Examinations	1,875.00		
Inspections	14,475.33		
Sale of Documents	58.80		
Total Revenue			29,034.13
Total Funds Available			69,092.80
Expenditures:			
Hourly Wages	4,289.31		
Other Compensation	145.17		
Employee Benefits	564.17		
Contracted Services	2,477.86		
Supplies	161.28		
Communications	143.67		
Travel	1,343.45		
Rent	52.00		
Repair & Maint.			
Other Expenses			
Goods for Resale			
Equipment	156.50		
Appropriation Transfer	3,413.00		
Total Expenditures		12,746.41	12,746.41
Balance		42,650.59	56,346.39
Less: Purchase Order Encumbered		239.50	
Appropriation Balance 10-2-76		42,411.09	
Less: Accrued Expenditures	1264.05		
Prior Year Expenditure Adjut.	66.89		
Earmarked Account Balance 10-02-76			1,330.94
			55,015.45
Appropriation Status:			
Time Elapsed	25%		
Percentage Expended	23.4%		

____ BILL NO. ____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO
QUALIFICATIONS FOR LICENSURE AS A PLUMBER, ELECTRICIAN, OR
HEATING, VENTILATING, AND AIR CONDITIONING MECHANIC,
ALLOWING RECOGNITION OF CLASSROOM TRAINING AS PART OF
APPRENTICESHIP TRAINING; AMENDING SECTIONS 66-2402, 66-2837,
AND 66-3508, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 66-2402, R.C.M. 1947, is amended to
read as follows:

"56-2402. Application for state license --
qualifications of licensees. (1) A person desiring to work
at the business of plumbing in the state of Montana shall
file his application for a license with the department and
shall at the time and place designated by the board be
examined as to his qualifications for working in this
business.

(2) The following requirements shall be met by
applicants for a license:

(a) For journeyman plumbers:

(i) A specific record of four (4) years' experience in
the field of plumbing of a character satisfactory to the

board. This experience requirement may be fulfilled by
working four (4) years in a major phase of the plumbing
business or by completing an apprenticeship program meeting
the standards set by the department of labor and industry or
the United States department of labor, bureau of
apprenticeships or credit credit towards this experience
requirement or apprenticeship training may be given for time
spent attending an accredited trade or other schools school
specializing in training of value in the field of plumbing
and approved by the board.

(ii) Satisfactory completion of an examination conducted
by the department, subject to section 82A-1603(4), testing
the applicant's knowledge of techniques and methods employed
in the field of plumbing and establishing by practical
demonstration his competence in the special skills required
in the field of plumbing.

(iii) A licensed journeyman plumber may perform work
only in the employment of a licensed master plumber unless
otherwise permitted by rule of the board.

(c) For master plumbers:

(i) Evidence of four (4) years' experience as a
journeyman plumber in the field of plumbing of a character
satisfactory to the board.

(ii) Evidence of three (3) years' experience in
supervisory capacities in the field of plumbing, which may

1 or installing wiring, apparatus, or equipment for electrical
 2 light, heat, and power. Applicants ~~AN applicant~~ for license
 3 as a master electrician shall file an application on forms
 4 prescribed by the board and furnished by the department
 5 together with the examination fee. The board shall, not less
 6 than ~~thirty~~---~~(30)~~ days prior to a scheduled written
 7 examination, notify each applicant that the evidence
 8 submitted with his application is sufficient to qualify him
 9 to take the written examination or that the evidence is
 10 insufficient and is rejected. If the application is
 11 rejected, the board shall set forth the reasons in the
 12 notice to the applicant and shall authorize the department
 13 to return the applicant's examination fee. The place of
 14 examinations shall be designated by the board and
 15 examinations shall be held at least once a year and at other
 16 times as, in the opinion of the board, the number of
 17 applicants warrants.

18 (b) The written examination shall consist of at least
 19 ~~thirty~~---~~(30)~~ questions designed to fairly test the
 20 applicant's knowledge and his technical application in the
 21 following subjects:

- 22 (i) ~~the~~ National Electrical Code;
- 23 (ii) cost estimating for electrical installments;
- 24 (iii) procurement ~~procurement~~ and handling of materials
 25 needed for electrical installations and repair;

1 run concurrently with the requirement in (i) above.

2 (iii) Satisfactory completion of an examination for
 3 master plumbers testing his knowledge of the field of
 4 plumbing and demonstrating his skill and ability in the
 5 field of plumbing.

6 ~~(iv)~~ (1) A master plumber is not authorized to perform
 7 the work of a journeyman plumber unless he is also licensed
 8 as a journeyman plumber. A licensed master plumber may
 9 employ apprentice and only journeyman plumbers who are
 10 licensed by the state of Montana, in the conduct of his
 11 business and shall be responsible for assuring that all work
 12 performed by such employees shall be in compliance with the
 13 state plumbing code."

14 Section 2. Section 66-2807, R.C.M. 1947, is amended to
 15 read as follows:

16 "66-2807. License requirements. (1) Master
 17 electrician's license:

18 (a) An applicant for a master electrician's license
 19 shall furnish written evidence that he is a graduate
 20 electrical engineer of an accredited college or university
 21 and has ~~one~~---~~(1)~~ year of practical electrical experience or
 22 that he is a graduate of an electrical trade school and has
 23 at least ~~four~~---~~(4)~~ years of practical experience in
 24 electrical work or that he has had at least ~~five~~---~~(5)~~ years'
 25 practical experience in planning, laying out, supervising,

(iv) Reading leading of blueprints for electrical work;
 (v) Drafting drafting and layout of electrical circuits;

(vi) Knowledge knowledge of practical electrical theory.

(2) Journeyman electrician's license:

(a) An applicant for a journeyman electrician's license shall furnish written evidence that he has had at least ~~four~~ **four** years apprenticeship in the electrical trade or ~~four~~ **four** years practical experience in the wiring for, installing, and repairing of electrical apparatus and equipment for light, heat, and power. ~~Apprenticeship training may include credit given for classroom training in an accredited institution.~~ Applications for license and notice to the applicant shall be made and given as in the case of master electricians' licenses.

(b) The written examination for a journeyman's license shall consist of at least ~~thirty~~ **thirty** questions designed to fairly test the applicant's knowledge and the technical application thereof in the following subjects:

- (i) the the Ohms law;
- (ii) the the National Electrical Code;
- (iii) layout and practical installation of electrical circuits.
- (c) To insure impartiality, the examination for either

license shall be by numbers drawn by lot. A paper may not be marked with the name of an applicant but shall be anonymously marked by the department, subject to section 82A-104. The examination passing grade is ~~seventy-five~~ **percent-75%**. If it is determined that the applicant has passed the examination, the department, on payment by the applicant of the fee, shall issue to the applicant a license which authorizes him to engage in the business, trade, or calling of a journeyman electrician or master electrician. Each original license expires on July 15 which is at least ~~one~~ **one** year but not more than ~~two~~ **two** years subsequent to the date of issuance.

(4) Licenses of journeyman electricians or master electricians, unless they have been suspended or revoked by the board, shall be renewed for a period of ~~one~~ **one** year by the department on application for renewal made to the department prior to July 15 of the year in which the prior license expired and on the payment of an annual renewal fee. If application for renewal is not made prior to July 15, an additional fee of ~~five-dollars~~ **\$5** shall be paid on account of the delinquency in renewal. All applications for renewal must be made prior to August 15 of that year, otherwise the license is forfeited, and the applicant is required to pass the examination and pay the fees required of applicant for original licenses."

1 of a duly licensed journeyman, learning the business of warm
2 air heating, ventilation, and air conditioning; and
3 (c) apprentices qualifying hereunder shall be issued
4 apprentice permits by the board."
-End-

1 Section 3. Section 66-3508, R.C.M. 1947, is amended to
2 read as follows:
3 "66-3508. Requirements for licensure. The following
4 requirements shall be met by applicants for a state license:
5 (1) Masters shall furnish evidence of five--(5) years'
6 experience in warm air heating, ventilation, and air
7 conditioning work satisfactory to the board.
8 (2) Journeyman mechanics shall furnish evidence of four
9 (4) years' experience in warm air heating, ventilation, and
10 air conditioning work which is satisfactory to the board.
11 This experience requirement may be fulfilled by working four
12 (4) years in any major phase of the warm air heating,
13 ventilation, and air conditioning business, or by completing
14 an apprenticeship program meeting the standards set by the
15 Montana state apprenticeship council or United States
16 department of labor, bureau of apprenticeship, and credit
17 credit towards this experience requirement of apprenticeship
18 training may be given for time spent in attending trade or
19 other schools specializing in training in the warm air
20 heating, ventilation, and air conditioning business and
21 approved by the board.
22 (3) For apprentice mechanics:
23 (a) registration by the board and the Montana
24 apprenticeship council as an apprentice;
25 (b) working under the direct and personal supervision

1 INTRODUCED BY _____ BILL NO. _____

2

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A REMEDY TO

5 CONSUMERS OF PROFESSIONAL SERVICES WHO ARE HARMED BECAUSE OF

6 A VIOLATION OF PROFESSIONAL STANDARDS BY LICENSEES OF THE

7 DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING;

8 PLACING AUTHORITY IN THAT DEPARTMENT TO REQUIRE LICENSEES TO

9 REPAIR THE HARM OR PAY DAMAGES IN REPARATION FOR SUCH HARM;

10 CREATING A FUND TO PAY AWARDS DEFAULTED UPON; AND REMOVING

11 BOARD REQUIREMENTS; AMENDING SECTIONS 66-1940, 66-2115,

12 66-2405, R.C.M. 1947; AND REPEALING SECTIONS 66-1934,

13 66-2113, 66-2609, 66-3322, 66-3323, 66-3324, 66-3325,

14 66-3326, AND 66-3510, R.C.M. 1947."

15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Board hearing to determine injury caused by

18 licensee. A person who suffers injury from an act or

19 omission of a licensee performing the professional or

20 occupational duties for which he is licensed by the

21 department of professional and occupational licensing may

22 file with the department a sworn statement in the nature of

23 a complaint, stating the cause and extent of the injury and

24 all other facts pertinent to the complaint. After receiving

25 the complaint, the board or equivalent licensing authority

1 that licensed the person named in the complaint may hold a

2 hearing in the manner provided by the Montana Administrative

3 Procedure Act for contested cases to determine whether the

4 licensee violated professional standards and board rules.

5 Whether injury was caused thereby, and the amount of

6 damages. The board or equivalent licensing authority may

7 dismiss a complaint if it determines is frivolous. The board

8 shall hold a hearing on every complaint that is not

9 dismissed as frivolous.

10 Section 2. Order requiring payment or repair. If the

11 board or equivalent licensing authority determines that a

12 licensee caused injury in the course of his professional

13 duties, it may enter an order requiring the licensee to make

14 payment to the consumer or to repair the damage caused. The

15 amount of the payment required may not exceed \$5,000 per

16 complaint.

17 Section 3. Action in case of noncompliance. The board

18 may revoke the license of the licensee if payment or repairs

19 are not made within 30 days after the board enters its

20 order.

21 Section 4. Fund for hearing expenses and paying

22 damages. In addition to the renewal fee, licensees of the

23 department shall pay an annual fee of not less than \$5 and

24 not more than \$20 to the department, payable with the

25 renewal fee. The director of the department shall establish

the annual fee, which may vary according to the occupation or profession licensed. The department shall deposit these fees in an earmarked revenue fund to pay:

(1) the cost of hearings provided for in ~~the~~ (section 1<); and

(2) damages awarded to a complainant which have not been paid by the licensee or former licensee within the time provided in ~~the~~ (section 5<).

Section 5. Payment for awards defaulted upon. If a licensee or person formerly licensed by the department fails to repair or pay damages assessed against him in an order of a board or equivalent licensing authority within 45 days after the order is entered, the department shall pay the complainant the full amount of damages awarded by the board or equivalent licensing authority from the fund created for that purpose.

Section 6. Appeal to district court. In any appeal to the district court under the provisions of the Montana Administrative Procedure Act, the board's record of hearing and order is prima facie evidence of the correctness of its contents.

Section 7. Court enforcement. If an award has been made and no appeal has been filed, the attorney general may petition the district court to enforce the award by appropriate order.

Section 8. Remedy not exclusive -- offset. The remedy provided for in this act is in addition to any other remedy the complainant may be entitled to, but a recovery under this act must be offset against any additional recovery.

Section 9. Section 66-1940, R.C.M. 1947, is amended to read as follows:

"66-1940. Penalties -- legal actions. ~~Any~~ Any individual acting as a broker or salesman without a license or while his license is suspended or revoked, or any person who violates any provision of this act, shall be guilty of a misdemeanor and upon conviction thereof by a district court of this state shall be punishable by a fine of not less than ~~one-hundred-dollars~~ ~~{100.00}~~ or more than ~~five-hundred-dollars~~ ~~{500.00}~~ or by imprisonment for a term not to exceed ~~ninety~~ ~~{90}~~ days, or both. Upon conviction of a second or subsequent violation, the person shall be punishable by a fine of not less than ~~five-hundred-dollars~~ ~~{500.00}~~ or more than ~~two-thousand-dollars~~ ~~{2,000.00}~~ or by imprisonment for a term not to exceed ~~six~~ ~~{6}~~ months, or both.

~~{b}~~ ~~{2}~~ In case any person in a civil action is found guilty of having received any money, or the equivalent thereof, as a fee, commission, compensation, or profit by or in consequence of a violation of any provision of this act, he shall in addition be liable to a penalty of not less than

1 the amount of the sum of money so received and not more than
 2 three times the sum so received, as may be determined by the
 3 court, which penalty may be recovered in any court of
 4 competent jurisdiction by any person aggrieved.

5 ~~let--Any person sustaining damages by feature of a real~~
 6 ~~estate--broker--or--real--estate--salesman--to comply with the~~
 7 ~~provisions of this act--shall have the right to commence an~~
 8 ~~action--in--his--own name--against the real estate broker and~~
 9 ~~his surety or the real estate salesman and his surety--or~~
 10 ~~both--the--broker--and--any--salesman--employed--directly or~~
 11 ~~indirectly--by such broker and their respective sureties--for~~
 12 ~~the recovery of any damages sustained as the result--of--any~~
 13 ~~act--specified--in--section 66-1937--herein or as a result of~~
 14 ~~the failure--of--the--real--estate--broker--or--real--estate--~~
 15 ~~salesman--to--comply with the provisions of this act--in any~~
 16 ~~cases where suit--is--brought--against--the--broker--or--the~~
 17 ~~salesman--and--his--surety--the court shall upon entering~~
 18 ~~judgment for the plaintiff--allow as a part of the costs--of~~
 19 ~~suit--a reasonable amount--as attorney's fees~~
 20 ~~Att--penalties--provided--for--by--this--section may be~~
 21 ~~collected from the broker's and salesmen's bonds provided by~~
 22 ~~section 66-1937~~

23 Section 10. Section 66-2115, R.C.M. 1947, is amended
 24 to read as follows:

25 "66-2115. Regulation of abstractors -- violations.

1 (1) The board may cancel and revoke a certificate of
 2 registration issued to a person under this act for a
 3 violation of this act, or on a conviction of the holder of
 4 the certificate of a crime involving moral turpitude or if
 5 the board finds the holder to be guilty of habitual
 6 carelessness or inattention to business or of fraudulent
 7 practices. The board may also cancel and revoke a
 8 certificate of authority issued to a person, firm, or
 9 corporation under this act for ~~failure to furnish the bond~~
 10 ~~or other securities required by section 66-2113 or new or~~
 11 ~~additional bonds--the board considers necessary--or for~~
 12 ~~failure to maintain indices and abstract records or for~~
 13 ~~failure to have in charge of the business a registered~~
 14 ~~abstractor or for violation of this act.~~

15 (2) On a verified complaint being filed with the
 16 department charging the holder of a certificate of
 17 registration with a violation of any of the provisions of
 18 subsection (1) of this section the board shall require the
 19 holder of the certificate to appear before it on a day fixed
 20 by the board to show cause why the certificate should not
 21 be canceled."

22 Section 11. Section 66-2405, R.C.M. 1947, is amended
 23 to read as follows:

24 "66-2405. Examination fee -- expiration of license --
 25 annual renewal -- fees -- bond required of master plumbers.

1 No applicant for a master plumber's license may submit to
2 the examinations prescribed by the board until he has
3 deposited with the department one hundred dollars--\$100 as
4 an examination fee, and no applicant for a journeyman
5 plumber's license may submit to the examination prescribed
6 by the board until he has deposited with the department
7 fifty dollars--\$50 as an examination fee. A license when
8 issued expires one--1 year from the date of issuance. A
9 license issued to a master plumber or a journeyman plumber
10 may be renewed annually without examination, at any time
11 prior to its expiration, by a written request for its
12 renewal, directed to the department, and the payment of not
13 to exceed one hundred dollars--\$100 as set by the board
14 for a renewal of a master plumber's license, and not to
15 exceed twenty-five dollars--\$25 as set by the board for a
16 journeyman plumber's license, and renewal is also for the
17 period of one--1 year. No master plumber's license may be
18 issued or renewed unless the applicant has deposited with
19 the department a good and sufficient bond to be approved by
20 the board, or cash in the amount of five thousand dollars
21 \$5,000 to insure the faithful performance of his duties
22 arising out of the state plumbing code or this chapter."

23 Section 12, Repealer, Sections 66-1934, 66-2113,
24 66-2609, 66-3321, 66-3323, 66-3324, 66-3325, 66-3326, and
25 66-3510, R.C.M. 1947, are repealed.

-End-

1 INTRODUCED BY _____ BILL NO. _____

2

3 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO

4 CERTIFICATION OF TEACHERS IN THE PUBLIC SCHOOLS OF MONTANA

5 AND TEACHER EDUCATION INSTITUTIONS AND PROGRAMS; CREATING A

6 BOARD OF PROFESSIONAL STANDARDS AND LICENSURE; AND RAISING

7 TEACHER CERTIFICATION FEES; AMENDING SECTIONS 75-6007,

8 75-6002 THROUGH 75-6004, 75-6005 THROUGH 75-6010, 75-6101,

9 AND 75-6102, R.C.M. 1947."

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12

13 Section 1. There is a new R.C.M. section numbered

14 75-6000 that reads as follows:

15 75-6000. Definitions. As used in this chapter, unless

16 the context clearly indicates otherwise, the following

17 definitions apply:

18 (1) "Approved teacher education institution" means an

19 institution that meets the standards of the board of

20 professional standards and licensure for preparation of

21 teachers for grades pre-primary through 12.

22 (2) "Approved teacher education program" means a

23 program approved by the board of professional standards and

24 licensure that is offered by an approved teacher education

25 institution.

1 (3) "Board" means the board of professional standards

2 and licensure.

3 (4) "Teacher" means any person holding a valid Montana

4 teaching certificate.

5 (5) "Teaching certificate" means a certificate issued

6 under 75-6006.

7 Section 2. There is a new R.C.M. section numbered

8 75-6001.1 that reads as follows:

9 75-6001.1. Board of professional standards and

10 licensure -- allocation. (1) There is a board of

11 professional standards and licensure. The board consists of

12 11 members appointed by the governor as follows:

13 (a) six classroom teachers;

14 (b) one school administrator;

15 (c) one lay member;

16 (d) one member of a local school board;

17 (e) the superintendent of public instruction or his

18 designee as an ex officio member; and

19 (f) the commissioner of higher education or his

20 designee as an ex officio member.

21 (2) If the title or position of an individual in

22 subsection (1)(a) or (1)(b) should change after an

23 appointment is made, the individual shall resign immediately

24 and the governor shall fill the vacancy.

25 (3) The board is allocated to the board of public

1 education for administrative purposes only as prescribed in
 2 82A-108. However, the board may hire its own personnel, and
 3 82A-108 (2)(d) does not apply.

4 Section 3. There is a new R.C.M. section numbered
 5 75-6001.2 that reads as follows:

6 75-6001.2. Qualifications of members. (1) To be
 7 eligible to be one of the appointed board members listed in
 8 75-6001.1(1)(a) or (1)(b), a person must:

9 (a) have been actively engaged in teaching or
 10 providing related educational, administrative, or
 11 supervisory services in a public school or an approved
 12 institution of higher education with approved teacher
 13 education programs for at least 5 of the 8 years immediately
 14 preceding his appointment; and

15 (b) be a Montana resident.

16 (2) All board members are voting members of the board.

17 (3) Should a person leave the state to be domiciled in
 18 another state, his position on the board becomes vacant at
 19 that time.

20 Section 4. There is a new R.C.M. section numbered
 21 75-6001.3 that reads as follows:

22 75-6001.3. Term of office and removal. (1) The term of
 23 office of an appointed member is 3 years. Before the
 24 expiration of the term of a member, the governor shall
 25 appoint his successor to assume his duties on the next

1 following July 1. A member is eligible for reappointment but
 2 only for one additional term. In case of a vacancy for any
 3 cause, the governor shall make an appointment to become
 4 immediately effective for the unexpired term.
 5 (2) Original appointments shall be made for staggered
 6 terms of 1, 2, and 3 years as determined by the governor.
 7 (3) An appointed member of the board may be removed by
 8 the governor for cause after a hearing.

9 Section 5. There is a new R.C.M. section numbered
 10 75-6001.4 that reads as follows:

11 75-6001.4. Officers -- quorum -- expenses. (1) The
 12 board shall select a chairman and vice-chairman from among
 13 its appointed members.

14 (2) A quorum for meeting is not less than seven board
 15 members.

16 (3) Appointed board members are entitled to travel
 17 expenses incurred for each day in attendance at board
 18 meetings or in the performance of any duty or service as a
 19 board member in accordance with 59-538, 59-539, and 59-801,
 20 as amended.

21 Section 6. There is a new R.C.M. section numbered
 22 75-6001.5 that reads as follows:

23 75-6001.5. Meetings of the board. The board shall meet
 24 quarterly and at such other times as may be required for the
 25 proper conduct of the business of the board at the call of

1 the chairman.

2 Section 7. There is a new R.C.M. section numbered
3 75-6001.6 that reads as follows:

4 75-6001.6. Adoption of rules -- seal -- record of
5 proceedings. (1) The board may adopt rules for the conduct
6 of board business.

7 (2) The board shall use an official seal to
8 authenticate its official acts.

9 (3) The board shall keep a record of proceedings.

10 Section 8. Section 75-6002, R.C.M. 1947, is amended to
11 read as follows:

12 "75-6002. Board--of--education--policies and
13 duties of board. To effect an orderly and uniform system of
14 teacher certification, the board of education shall, upon
15 the--recommendation--of--the--superintendent--of--public
16 instruction--and in accordance with the provisions of this
17 title, prescribe and adopt policies for the issuance
18 of teacher certificates. Such policies shall provide for:

19 (1) reasonable training and experience requirements
20 for teachers, supervisors and administrative certificates and
21 endorsements thereon as provided by the certification
22 classification in section 75-6006;

23 (2) the renewal of teacher certificates based on the
24 same conditions prescribed for the initial issuance of
25 certificates;

1 (3) the conduct of hearings on teacher certification,
2 revocation, suspension, or denial;

3 (4) the issuance of emergency authorization to a
4 district to employ a person who is not the holder of a
5 valid teacher certificate as an instructor of pupils; and

6 (5) any other policy not inconsistent with the laws
7 which that is necessary for the proper operation of a
8 system of teacher certification."

9 Section 9. Section 75-6003, R.C.M. 1947, is amended to
10 read as follows:

11 "75-6003. Issuance of teacher certificates. The
12 superintendent of public instruction shall issue all teacher
13 certificates in the state of Montana. In issuing teacher
14 certificates, the superintendent of public instruction shall
15 comply with the provisions of this title and the
16 teacher certification policies adopted by the board of
17 education. The superintendent of public instruction shall
18 not issue a teacher certificate to any person who does
19 not satisfy the qualifications or other requirements of this
20 title and of the board of education policies for
21 teacher certification."

22 Section 10. Section 75-6004, R.C.M. 1947, is amended
23 to read as follows:

24 "75-6004. Qualifications. Any A person may be
25 certified as a teacher when he satisfies the following

1 qualifications:

2 (1) He is eighteen-{18} years of age or older but--is
3 not-more-than-seventy-{70}-years-of-age.

4 (2) He has a certificate of a licensed physician
5 attesting to his satisfactory health.

6 (3) He is a citizen of the United States except as
7 provided in section 75-6005.

8 (4) He is of good moral and professional character.

9 (5) He has completed the an approved teacher education
10 program of a unit of the Montana university system or an
11 essentially equivalent program at an accredited institution
12 in--the--United-States of equal rank and standing as that of
13 any unit-of-the-Montana-university-system approved teacher
14 education institution in the state, and such training shall
15 be evidenced by at least a bachelor's degree and a
16 certification of the completion of the approved teacher
17 education program, except as provided for in subsection-~~(4)~~
18 section 75-6006 and.

19 {6}-He--has--subscribed--to--the--following--oath--or
20 affirmation--before--an--officer--authorized--by--law--to
21 administer oaths.

22 "I solemnly swear (or affirm) that I will support--the
23 constitution--of--the--United--States--of--America--the
24 constitution--of--the--state--of--Montana--and--the--laws--of--the
25 United-States--and--the--state--of--Montana--and--with--by--precept

1 and--example--promote--respect--for--the--flag--and--the
2 institutions--of--the--United-States--and--the--state--of--Montana
3 reverence--for--law--and--order--and--undivided--affection--to--the
4 government--of--the--United-States--of--America"

5 Section 11. Section 75-6006, R.C.M. 1947, is amended
6 to read as follows:

7 "75-6006. Classifications of teacher certificates. (1)
8 The superintendent of public instruction shall issue teacher
9 certificates and the board of education shall adopt teacher
10 certification policies on the basis of the following
11 classifications of teacher certificates:

12 (a) Class 1. Professional certificate. The
13 professional certificate may be issued to an otherwise
14 qualified applicant who has completed a an approved teacher
15 education program which that includes a bachelor's degree
16 and a minimum of one 1 year of study beyond such degree in a
17 unit of the Montana university system or an equivalent
18 institution. The professional certificate may be endorsed
19 for elementary instruction, secondary instruction, or both
20 and for specified subject fields on the basis of the
21 applicant's academic and professional training and according
22 to the board of education policy for teacher certification
23 endorsement.

24 (b) Class 2. Standard certificate. The standard
25 certificate may be issued to an otherwise qualified

1 applicant who has completed ~~a four-year~~ an approved teacher
 2 education program and who has been awarded a bachelor's
 3 degree by a unit of the Montana university system or an
 4 equivalent institution. The standard certificate may be
 5 endorsed for elementary instruction, secondary instruction,
 6 or both and for specified subject fields on the basis of
 7 the applicant's academic and professional training and
 8 according to the board ~~of education~~ policy for teacher
 9 certification endorsement.

10 ~~(3)(c)~~ Class 3. Administrative and supervisory
 11 certificate. The administrative and supervisory certificate
 12 may be issued to an otherwise qualified applicant who is the
 13 holder of a teacher certificate endorsed for teaching in the
 14 school or schools in which he would be an administrator or
 15 he would supervise. The applicant also shall possess the
 16 training and experience required by ~~the policies of the~~
 17 ~~board of education~~ board policy for an endorsement as
 18 superintendent, principal, or supervisor.

19 ~~(4)(d)~~ Class 4. Vocational, recreational, or adult
 20 education certificate. The vocational, recreational, or
 21 adult education certificate may be issued to an otherwise
 22 qualified applicant who has the qualifications of training
 23 and experience required ~~by the United States Office of~~
 24 ~~education or the qualifications~~ required by the special
 25 needs of the several vocational, recreational, or adult

1 education fields and who can qualify under the board policy
 2 of ~~the board of education~~ for the issuance of this
 3 classification of teacher certification.

4 ~~(4)(d)~~ Class 5. Provisional certificate. The
 5 provisional certificate may be issued to an otherwise
 6 qualified applicant who can provide satisfactory evidence of
 7 his intent to qualify in the future for a class 1 or a class
 8 2 certificate and who has completed a ~~four-year~~ 4-year
 9 college program or its equivalent and holds a bachelor's
 10 degree from a unit of the Montana university system or its
 11 equivalent. The provisional certificate may be endorsed for
 12 elementary instruction, secondary instruction or both and
 13 for special subject fields on the basis of the applicant's
 14 academic and professional training and according to the
 15 ~~board of education~~ board policy for teacher certification
 16 endorsement.

17 (2) For purposes of evaluating the qualifications of
 18 applicants for teacher certificates, a year means the
 19 instructional period consisting of three quarters or two
 20 semesters or other terms which are recognized as an academic
 21 year by any unit of the Montana university system or
 22 equivalent institution."

23 Section 12. Section 75-6007, R.C.M. 1947, is amended
 24 to read as follows:

25 "75-6007. Outstanding teacher certificates. (1) No

1 provisions of this title shall affect or impair the validity
 2 of any certificate that is in force on the effective date of
 3 this act January 26, 1971, or the rights and privileges of
 4 the holder by virtue thereof, except that any certificates
 5 may be suspended or revoked for any of the causes and by the
 6 procedures provided by law.

7 121 Any holder of an elementary school standard
 8 certificate issued prior to July 1, 1959, under the previous
 9 statute and in force on July 1, 1959, shall be eligible for
 10 renewal of such certificate in accordance with the policies
 11 of the board of education board policy until the holder
 12 qualifies for the class 2 standard certificate, as provided
 13 in section 75-6006.

14 131 Any holder of a class 5 certificate in force on
 15 June 30, 1966, or issued between July 1, 1966, and December
 16 31, 1966, shall be eligible for renewal of such certificate
 17 in accordance with the policies of the board of education
 18 board policy until the holder qualifies for the class 2
 19 standard certificate as provided in section 75-6006.

20 Section 13. Section 75-6008, R.C.M. 1947, is amended
 21 to read as follows:

22 "75-6008. Term of teacher certificates. Any teacher
 23 certificate issued by the superintendent of public
 24 instruction shall bear the dates of issue and validity and
 25 shall be valid for a term of five (5) school fiscal years

1 except the class 5 provision of certificates shall be valid
 2 for two (2) school fiscal years. The period of validity for
 3 any certificate shall begin on the first day of July 1
 4 immediately preceding the date of issue. Teacher
 5 certificates shall be renewed for similar periods of time on
 6 the basis of the board of education policies board policy
 7 for teacher certification renewal."

8 Section 14. Section 75-6009, R.C.M. 1947, is amended
 9 to read as follows:

10 "75-6009. Fees for teacher certificates. Each person
 11 applying for the issuance or renewal of a teacher
 12 certificate shall pay a fee of two dollars (\$2) not to
 13 exceed \$10 for each school fiscal year that the certificate
 14 will be valid. In addition to this fee, each person who has
 15 never held any class of Montana teacher certificate or for
 16 whom an emergency authorization of employment has never been
 17 issued shall pay a filing fee of two dollars (\$2) \$5. Such
 18 fees shall be paid to the superintendent of public
 19 instruction who shall deposit the fees with the state
 20 treasurer to the credit of the general fund board account in
 21 the earmarked revenue fund."

22 Section 15. Section 75-6010, R.C.M. 1947, is amended
 23 to read as follows:

24 "75-6010. Suspension, revocation, and denial --
 25 appeals. 111 The board of education shall have the power and

1 authority--to may suspend or revoke the teacher certificate
2 of any person for any of the following reasons:

3 that any reason that would have required or
4 authorized the denial of the teacher certificate to such
5 person, if it had been known at the time such certificate was
6 issued;

7 that by--reason--of incompetency, immorality,
8 incompetence, physical or mental inability, or conviction of
9 a felony under state law; or

10 that by--reason--of--the failure of the certificate
11 holder to comply with the terms of any contract between such
12 holder and the trustees of a district without the consent of
13 the trustees in writing or without good cause; provided, the
14 failure is a material breach of the contract. Such breach of
15 contract shall constitute unprofessional conduct;

16 that whenever a substantial reason for the suspension
17 or revocation of the teacher certificate of any person is
18 brought to the attention of the board of education, it shall
19 afford the person an opportunity to defend himself and his
20 qualifications against the charges before--the--board--the
21 superintendent--of--public--instruction--shall--give--a--thirty
22 day--written--notification--to--any--person--when--the--board
23 of--education--intends--to--consider--the--suspension--or
24 revocation--of--his--certificate--the--board--of--education--shall
25 implement--an--investigation--of--the--reasons--for--the--suspension

1 or--revocation--charge--and--then,--if--the--investigation--warrants
2 further--action,--conduct--a--hearing--in--the--manner--provided--by
3 board--of--education--policies;

4 that Prior to considering revocation or suspension of
5 any teacher certificate, the board shall provide notice of
6 the reasons for the action and the opportunity for hearing.
7 For the purpose of such hearing, the board may appoint some
8 person to hear the evidence;

9 that After a full investigation and proper hearing, the
10 board of education may--suspend--or--revoke--the--person's
11 teacher--certificate--except--that--in In cases of a first
12 violation under subsection (3) that above, the maximum
13 penalty shall not be more than a suspension of the person's
14 certificate for the current school fiscal year and the
15 ensuing school fiscal year.

16 that Whenever the superintendent of public instruction
17 denies an application for the issuance or the renewal of a
18 teacher certificate to a person, he may appeal the denial to
19 the board of education--the appeal shall be heard in the
20 same manner provided for in this section for--suspension--or
21 revocation--and--in--accordance--with--the--policies--of--the--board
22 of education--The decision of the board of education shall
23 be final the superintendent shall notify the person and the
24 board of the denial and the reasons therefore. The person
25 whose application is denied may request, within 30 days of

1 includes a principal ~~as herein defined.~~

2 (3) "District superintendent" means any person who
3 holds a valid class 3 Montana teacher certificate with a
4 superintendent's endorsement that has been issued by the
5 superintendent of public instruction under the provisions of
6 this title ~~and the policies adopted by the board of~~
7 ~~education~~ and who has been employed by a district as a
8 district superintendent."

9 Section 17. Section 75-6102, R.C.M. 1947, is amended
10 to read as follows:

11 "75-6102. Employment of teachers by contract. (1) The
12 trustees of any district shall have the authority to employ
13 any person as a teacher, but only a person who holds a valid
14 Montana teacher certificate or for whom an emergency
15 authorization of employment has been issued that qualifies
16 such person to perform the duties prescribed by the trustees
17 for the position of employment. Each teacher shall be
18 employed under written contract and each contract of
19 employment shall be authorized by a proper resolution of the
20 trustees and shall be executed in duplicate by the chairman
21 of the trustees and the clerk of the district in the name of
22 the district and by the teacher.

23 (2) No contract of employment with a teacher shall
24 require such teacher to teach more than five (5) days a
25 week or on any holiday recognized by section 75-7406. No

1 receiving notification from the superintendent, a hearing
2 before the board to challenge the denial."

3 Section 16. Section 75-6101, R.C.M. 1947, is amended
4 to read as follows:

5 "75-6101. Definitions. As used in this title,
6 unless the context clearly indicates otherwise, the
7 following definitions apply:

8 (1) "Teacher" means any person, except a district
9 superintendent, who holds a valid Montana teacher
10 certificate that has been issued by the superintendent of
11 public instruction under the provisions of this title ~~and~~
12 ~~and the policies adopted by the board of education~~ and who
13 is employed by a district as a member of its instructional,
14 supervisory, or administrative staff. This definition of a
15 teacher ~~also shall include~~ includes any person for whom an
16 emergency authorization of employment of ~~each~~ person has
17 been issued under the provisions of section 75-6011.

18 (2) "Principal" means any person who holds a valid
19 class 3 Montana teacher certificate with an applicable
20 principal's endorsement that has been issued by the
21 superintendent of public instruction under the provisions of
22 this title ~~and the policies adopted by the board of~~
23 ~~education~~ and who has been employed by a district as a
24 principal. For the purposes of this title, any
25 reference to a teacher shall ~~be construed as including~~

1 deduction shall ~~may~~ be made from a teacher's salary by
 2 ~~reason-of-the-fact-that~~ if a holiday falls on a school day.
 3 Any A teacher's contract made in conflict with the five
 4 5-days-per-week provision of this section shall ~~is~~ not be
 5 enforceable against the teacher.

6 131 Whenever the trustees of a county high school and
 7 the trustees of the elementary district where the county
 8 high school is located form a joint board of trustees under
 9 the provisions of section 75-5928, such joint board of
 10 trustees may execute a contract of employment with a teacher
 11 who shall serve both districts. When such a contract is
 12 executed, the two districts shall prorate the compensation
 13 provided by such contract on the basis of the total number
 14 of instructional hours expended by such teacher within each
 15 district.

16 ~~Any contract--executed--under--the--provisions-of-this~~
 17 ~~section-may-contain-the-oath-or--affirmation-prescribed--in~~
 18 ~~section-75-6884-and-the-teacher-shall-subscribe-to-such-oath~~
 19 ~~or--affirmation--before--an--officer--authorized--by--law-to~~
 20 ~~administer-oaths."~~

21 Section 18. There is a new R.C.M. section numbered
 22 75-6002.1 that reads as follows:

23 75-6002.1. Policy standards for approval of teacher
 24 education institution and programs. (1) After considering
 25 recommendations of the board of public education and the

1 board of renents, the board of professional standards and
 2 licensure shall by policy establish standards for approval
 3 of teacher education institutions and teacher and education
 4 programs.

5 (2) Whenever any teacher education institution or
 6 program is denied approved status or has such status
 7 withdrawn, such denial or withdrawal must be treated as a
 8 contested case. All appeals and hearings shall be held in
 9 accordance with the appropriate provisions of the Montana
 10 Administrative Procedure Act, as amended.

11 Section 19. There is a new R.C.M. section that reads
 12 as follows:

13 Policies of the superintendent of public instruction to
 14 remain in effect until new policies are adopted.
 15 Notwithstanding the transfer of duties, functions, and
 16 powers by this act, the lawfully adopted policies of the
 17 superintendent of public instruction and the board of public
 18 education in effect on the effective date of this act shall
 19 continue in effect until superseded by policies legally
 20 adopted by the board of professional standards and
 21 licensure. Any references in such policies of the
 22 superintendent of public instruction shall be considered to
 23 be references to the board.

24 Section 20. There is a new R.C.M. section that reads
 25 as follows:

1 Protection of prior rights. The transfer of duties,
 2 functions, and powers to the board of professional standards
 3 and licensure shall not affect any action, suit, proceeding,
 4 or prosecution involving or with respect to such duties,
 5 functions, and powers commenced prior to and pending at the
 6 time of the transfer, except that the board shall be
 7 substituted for the superintendent of public instruction or
 8 board of public education in such action, suit, proceeding,
 9 or prosecution.

10 Section 21. Section 75-5607, R.C.M. 1947, is amended
 11 to read as follows:

12 } *75-5607. Powers and duties. The board of public
 13 education shall have the power and it shall be its duty--to:
 14 (1)--effect an orderly and uniform system of teacher
 15 certification and for the issuance of an emergency
 16 authorization of employment by adopting the policies
 17 prescribed by sections 75-6002 and 75-6011

18 (2)--consider the suspension or revocation of teacher
 19 certificates and appeals from the denial of teacher
 20 certification in accordance with the provisions of section
 21 75-6010

22 (3) (1) administer and order the distribution of state
 23 equalization aid in accordance with the provisions of
 24 section 75-6917;

25 (4) (2) adopt and enforce policies to provide uniform

1 standards and regulations for the design, construction, and
 2 operation of school buses in accordance with the provisions
 3 of section 75-7004;
 4 (5) (3) approve or disapprove a reduction of the number
 5 of hours in a district's school day in accordance with the
 6 provisions of section 75-7403;
 7 (6) (4) adopt policies prescribing the conditions when
 8 school may be conducted on Saturdays and the types of
 9 pupil-instruction-related days and approval procedure for
 10 such days in accordance with the provisions of sections
 11 75-7404 and 75-7405;
 12 (7) (5) adopt standards of accreditation and establish
 13 the accreditation status of every school in accordance with
 14 the provisions of sections 75-7501 and 75-7502;
 15 (8) (6) establish the scope of conservation education
 16 in the schools in accordance with the provisions of section
 17 75-7503;
 18 (9) (7) approve or disapprove educational media
 19 selected by the superintendent of public instruction for the
 20 educational media library in accordance with the provisions
 21 of section 75-7511;
 22 (10) (8) as the governing board of the state of Montana
 23 for vocational education, adopt the policies prescribed by
 24 and in accordance with the provisions of section 75-7702;
 25 (11) (9) consider applications for post-secondary

1 ~~postsecondary~~ vocational-technical center designation in
2 accordance with the provisions of ~~section~~ 75-7707;
3 ~~§§7701~~ for the purposes of ~~post-secondary~~
4 ~~postsecondary~~ vocational-technical centers, approve or
5 disapprove programs and budgets, direct the distribution of
6 moneys in support of such budgets, determine tuition rates
7 and fees, and enter into lease agreements or real property
8 purchases in accordance with the ~~post-secondary~~
9 ~~postsecondary~~ vocational-technical center provisions of the
10 vocational education chapter of this ~~title~~ title;
11 ~~§§7711~~ adopt policies for the conduct of special
12 education in accordance with the provisions of ~~section~~
13 75-7802;
14 ~~§§7721~~ supervise community college districts in
15 accordance with the provisions of ~~sections~~ 75-8103 and
16 75-8119;
17 ~~§§7731~~ call an election, determine the results of the
18 election, and order and implement the organization of a
19 community college district in accordance with the community
20 college districts chapter of this ~~title~~ title; and
21 ~~§§7741~~ perform any other duty prescribed from time to
22 time by this ~~title~~ title or any other act of the
23 legislature."

-End-

